

Exhibit A

**UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
PENNSYLVANIA**

IN RE: Visual Semiconductor, Inc. and Rembrandt 3D Holding Ltd.

Petitioners.

*On Petition for a Writ of Mandamus and Prohibition to the
United States Bankruptcy Court for the Eastern District of Pennsylvania in
Case No. [•]
Judge [•]*

**EMERGENCY JOINT PETITION FOR (I) WRIT OF MANDAMUS;
(II) WRIT OF PROHIBITION; (III) MOTION FOR STAY PENDING
APPEAL; AND (IV) IN THE ALTERNATIVE, MOTION FOR
WITHDRAWAL OF REFERENCE TO BANKRUPTCY COURT**

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CERTIFICATE OF INTEREST

Pursuant to Federal Circuit Rule 47.4(a) and Federal Rule of Appellate Procedure 26.1, counsel for Petitioners Visual Semiconductor, Inc. and Rembrandt 3D Holding Ltd. certify the following:

1. The full name of every party represented by us is Visual Semiconductor, Inc. and Rembrandt 3D Holding Ltd.
2. There are no other real parties in interest represented by us.
3. All parent corporations and any publicly held companies that own 10% or more of the stock of the parties that we represent are as follows: None.
4. The names of all law firms and the partners or associates that appeared for the parties now represented by us or that are expected to appear in this court are:

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5. Provide the case titles and numbers of any case known to be pending in this court or any other court or agency that will directly affect or be directly affected by this court's decision in the pending appeal:

- *In re Stream TV Networks, Inc.*, Case No.: 23-10763 (AMC) in the United States Bankruptcy Court for the Eastern District of Pennsylvania

6. Provide any information required under Fed. R. App. P. 26.1(b) (organizational victims in criminal cases) and 26.1(c) (bankruptcy case debtors and trustees): Not Applicable.

Dated: December 9, 2024

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RELIEF SOUGHT

Petitioners Visual Semiconductor Inc. (“**VSI**”) and Rembrandt 3D Holding Ltd. (“**Rembrandt**”) respectfully and jointly request that the U.S. District Court for the Eastern District of Pennsylvania (the “**District Court**”) grant (i) an emergency petition for writ of mandamus, (ii) a writ of prohibition; (iii) a motion for stay pending appeal of the Sale Motion; (iv) a temporary restraining order preventing the United States Bankruptcy Court for the Eastern District of Pennsylvania (the “**Bankruptcy Court**”) from approving the motion¹ for sale of the assets of Stream TV Networks, Inc. and Technovative Media, Inc. (the “**Debtors**”) filed by the Court-appointed chapter 11 trustee (the “**Trustee**”) in *In re Stream TV Networks, Inc.*, Case No.: 23-10763 (AMC) in the United States Bankruptcy Court for the Eastern District of Pennsylvania (the “**Bankruptcy Court Proceeding**”); and, (v) in the alternative, withdraw the reference of the dispute and transfer it to the District Court.

¹ Motion for (I) an Order (A) Approving Bidding Procedures and Form Asset Purchase Agreement for the Sale of Substantially all of the Debtor’s Assets Including Approval of the Provisions for Designation of a Stalking Horse, (B) Establishing the Notice Procedures and Approving the Form and Manner of Notice Thereof and scheduling and Auction, (C) Approving Procedures for Assumption and Assignment of Certain Executory Contracts and Unexpired Leases (D) Scheduling a Sale Hearing, and (E) Granting Expedited Consideration Pursuant to Local Rule of Bankruptcy Procedure 5070-1(g); and (F) Granting Related Relief and (II) an Order Approving (A) the Sale of the Debtors Assets Free and Clear of All Liens, Claims, Encumbrances, and Other Interests, (B) Approving the Assumption and Assignment of Certain Executory Contracts and Unexpired Leases Related Thereto and (C) Granting Related Relief (Docket No. 750 in the Bankruptcy Court Proceeding, the “**Sale Motion**”).

QUESTION PRESENTED

1. Whether mandamus should issue because the Bankruptcy Court erred in
(i) failing to evaluate whether the proposed sale of assets that incorporate non-debtor property can be granted “free and clear” of liens, claims, and encumbrances under section 363(f) of the Bankruptcy Code; (ii) failing to evaluate whether the Proposed Purchaser is a “good faith” purchaser under section 363(m) of the Bankruptcy Code; and (iii) failing to allow Petitioners to make a proper evidentiary record regarding the same. Relatedly, whether the Trustee should be allowed to transfer control of trade secrets owned by Rembrandt to SeeCubic’s control in violation of 18 USC 1832, and whether a Proposed Purchaser can be considered a good faith purchaser while committing a crime, specifically conspiring in the theft of trade secrets under in violation of 18 USC 1832.
2. Whether prohibition should issue because it will (i) prevent the Bankruptcy Court from interfering with the District Court’s determination of the case pending appeal, (ii) prohibit the Bankruptcy Court from issuing orders in matters over which it has no jurisdiction - specifically here, authorizing the transfer of assets that do not constitute property of the estate under section 541 of the Bankruptcy Code.

3. Whether an emergency stay of the order granting the Sale Motion should be granted by this Court.
4. Whether the reference should be withdrawn.

STATEMENT OF JURISDICTION

This Court has jurisdiction to grant prohibition and mandamus relief under the All Writs Act, 28 U.S.C. § 1651.

This Court has jurisdiction to grant the withdrawal of the reference under 28 U.S.C. § 1334(b) and U.S.C. § 157(a).

INTRODUCTION

Mandamus and prohibition are an extraordinary measures reserved for extraordinary circumstances. But this case is extraordinary in every respect.

Petitioners have been extremely vocal and abundantly clear throughout the Bankruptcy Court Proceeding in their opposition to the conduct of the Trustee as well as the Hawk Parties (as defined below), specifically relating to the identity and activities of the proposed stalking horse - now Purchaser (as defined below), and their lack of good faith. However, the Bankruptcy Court has turned a blind eye to the points and cautions that the Petitioners have repeatedly attempted to raise, opting instead to serially deny Petitioners the ability to make a proper evidentiary record.

The key questions presented here are targeted, and the answers are clear: The assets the Trustee proposes to sell and transfer contain property owned by non-debtor

third parties, and thus the sale does not qualify for 363(f) treatment and cannot be approved as an assignment/transfer “free and clear” of the claims and encumbrances under the Bankruptcy Code. Moreover, the Proposed Purchaser is not a “good faith” purchaser, and as such, the sale of the Debtors’ assets to the Proposed Purchaser should clearly be disallowed. The Bankruptcy Court’s dismissal of the Petitioners’ arguments throughout the Bankruptcy Court Proceedings were steeped in explicit violations of due process and a mistaken view (or complete lack of view) of sections 363(f) and 363(m) of the Bankruptcy Code in light of the assets and circumstances involved in this case.

SeeCubic/Hawk and the Trustee are conspiring to transfer Rembrandt’s trade secrets from Stream’s control to SeeCubic’s control without authorization from Rembrandt in violation of 18 USC 1832. This subjects all those involved in the conspiracy to civil and criminal liability but those parties are asking this court to sanction their criminal theft of trade secrets that do not belong to the estate. A purchaser committing a crime through the sale cannot be a good faith purchaser.

Further, the District Court should stay entry of the order submitted by the Trustee granting the sale of the assets (the “**Sale Order**”) pending the appeal. Beyond the facts that the assets cannot be sold “free and clear” and the Proposed Purchaser is not a “good faith” purchaser, as discussed at length herein, there are a plethora of other reasons why Petitioners have a high likelihood of success on the

merits for a judgment that the Sale Transaction cannot go forward. For example, (a) the Trustee may not sell the Debtors' property unless that property constitutes property of the Debtors' estates and, *before* approving a sale, a court must first determine whether such property constitutes property of the estates; (b) the 9019 Agreement and Sale Motion taken together constitute an improper *sub rosa* plan of reorganization that cannot be approved; and (c) the proposed sale process is neither fair nor reasonable and is subject to a heightened scrutiny standard.

Finally, the reference should be withdrawn as mandatory under 28 U.S.C. § 157(d). The majority of courts find withdrawal of the reference mandatory when a claim or defense entails “material and substantial consideration” of non-Bankruptcy Code federal law. Petitioners submit that (i) withdrawal of the reference is *mandatory* under 28 U.S.C. § 157(d) because the proceedings will involve substantial and material consideration of non-bankruptcy federal law (including law relating to due process and intellectual property) and (ii) in the alternative, the District Court should withdraw the reference under the discretionary standard of 28 U.S.C. § 157 because it is indisputably best suited to apply that non-bankruptcy law to the painstakingly litigated facts and related issues and to decide those issues as expeditiously and economically as possible.

STATEMENT OF THE CASE

This matter revolves around the Trustee's attempts to sell the assets of the Debtors to the Hawk Parties (as defined below), contrary to law and against the interests of other stakeholders in the cases.

On January 4, 2024 the Debtor, in Adv. Case No 23-00057-AMC, obtained a Temporary Restraining Order ("**Bankruptcy TRO**") (Adv. No. 119) preventing the Hawk Parties from using the Debtors' technology to compete with the Debtors. Prior to even the entry of the Bankruptcy TRO, prepetition on August 9, 2022, the Delaware Chancery Court had already issued a temporary restraining order enjoining SeeCubic, Inc. from selling Stream's assets, which assets the Hawk Parties have been unlawfully in their possession since then (the "**Delaware TRO**" together with the Bankruptcy TRO, the "**TROs**").

The Hawk Parties' efforts to take control of the Debtors' property preceded and precipitated the filing of the Chapter 11 Cases, continued throughout this case in violation of the automatic stay and a Worldwide Stay Order (defined below)², and continued after entry of the Bankruptcy TRO. Since entry of the TROs, the Debtors, Rembrandt, and VSI have, at various points throughout the case sought to enforce

² On December 14, 2023, in light of the Hawk Parties' extra-territorial misconduct and misappropriation, possession, and control of Debtor assets, the predecessor judge in this bankruptcy proceeding (Judge Magdeline D. Coleman) recognized the ongoing damage to the Debtors estates and potential harms to third parties (e.g. Rembrandt) and issued a Stipulated Order Restating and Enforcing the Worldwide Automatic Stay (the "**Worldwide Stay Order**," attached hereto as **Exhibit A**) (Docket #517).

the automatic stay, the Worldwide Stay Order, and the TROs against the *ultra vires* actions of the Hawk Parties to take control of the Debtors assets, which efforts, once a Chapter 11 Trustee was appointed, shifted to utilizing the Trustee to take control of those assets. Notwithstanding the Hawk Parties' constant violations of the automatic stay, the Worldwide Stay Order, and the TROs, the Bankruptcy Court refused to sanction or prevent the Hawk Parties from repeatedly violating these multiple court orders through their unlawful possession of estate assets, which possession persists to today. While the 9109 Agreement with the Hawk Parties ignores all of their stay and TRO violations throughout the case, the Trustee's proposed sale cannot overcome Rembrandt's property interests (and the sale's immediate infringement upon Rembrandt's intellectual property rights). As such, if completed the sale would itself be violation of the TRO and, if consummated as proposed, it will destroy all the value in the estate by rendering the Debtors' IP unusable and the StreamTV Debtors' hopelessly unable to reorganize – all while irrevocably destroying Rembrandt's trade secrets without a remedy. The Bankruptcy Court failed to address these violations or their clear consequences: the TRO transgressors will achieve the precise purpose of their transgressions – transfer and assignment of title to the assets they have misappropriated, controlled, and/or sought to possess since the commencement of these cases – all under the “color of law” and with the imprimatur of the Bankruptcy Court and its appointed fiduciary, the Trustee.

On June 7, 2024, the Bankruptcy Court entered an order approving the Trustee's Settlement (the "**9019 Agreement**") with Hawk Investment Holdings, Ltd., in its capacity as Collateral Agent for the secured noteholders of SeeCubic, Inc., SLS Holdings VI, LLC, and various individuals who received releases, including Arthur Leonard, Robert Morton, Shadron L. Stastney, Alastair Crawford, Asaf Gola, Kevin Gollop, Patrick Miles, Patric Theune, and Krzysztof Kabacinski (collectively, the "**Hawk Parties**"). The Bankruptcy Court entered the 9019 Agreement despite the obvious weakness of the evidentiary record, an exceptionally large claim allowance, and clear conflicts between the Debtors' estates and the Hawk Parties, specifically SeeCubic, Inc. and its principal, Shadron Stastney.

Nearly four months later, on September 30, 2024, the Trustee filed the Sale Motion, despite a multitude of alternative funding, purchase, and plan proposals from VSI and Rembrandt to the Trustee to achieve a better outcome for all stakeholders than the one contemplated by the 9019 Agreement – including for unsecured creditors. The process contemplated by the Sale Motion disproportionately benefited the Hawk Parties at the expense of all other stakeholders.

As anticipated, the sales process produced no bids beyond that of SeeCubic as proposed stalking horse bidder (the "**Proposed Purchaser**"). In fact, according to SSG's (defined below) statements on the record at the November 13, 2024 hearing,

no other party has expressed any interest whatsoever.³ Indeed, as the Court heard from the Trustee and his advisors at the November 13th hearing, after the Trustee's marketing efforts, no prospective bidder was sufficiently interested in the Debtors' assets to sign a simple NDA to access the sale data room. Only VSI signed an NDA, but the Trustee's investment banker did not even bother sending VSI the teaser used to market the Debtors' assets. Given the glaring issues and legal defects regarding the sale, the likelihood of VSI placing a bid is practically non-existent, and no other party could reasonably be expected to submit a bid under the circumstances. Given the asset value involved, that no contacted party was interested enough to sign an NDA is an indictment of the Trustee's marketing and sale process, which is borne out by the inexplicable fact that none of the most-likely bidders for the 3-D no glasses technology (i.e. Ultra-D technology) appear to have sent teasers or contacted in any way.⁴

The Trustee has failed to properly assess or disclose what is being sold and does not even know what he is actually selling. In contravention of his duties to inventory and marshal the estates' assets, the Trustee refused to recover millions of dollars in the Debtors' property from the Hawk Parties or wrest control of high-value

³ Which statements were reinforced by SSG's testimony at the December 4, 2024 sale hearing. *See* December 4, 2024 Hearing Transcript attached hereto as **Exhibit B** at 63:22-25, 64:1-4.

⁴ *See* December 4, 2024 Hearing Transcript, attached hereto as **Exhibit B** at 72:10, 73:21 for cross-examination transcript testimony of SSG's Scott Victor regarding the 23 licensees identified in the Philips License Agreement and whether those most likely bidders for the Ultra-D technology were contacted.

assets from SeeCubic, Inc. and its principal, Mr. Stastney. Indeed, during the limited cross-examination that the Bankruptcy Court permitted at the sale hearing, the Trustee admitted that he made no effort to inventory or marshal the estates' assets (see December 4, 2024 Hearing Transcript at 25:7-14⁵), nor did he make an effort to determine whether the assets implicated by the proposed sale (and identified by the Asset Purchase Agreement) are actually property of the Debtors' estates (see *Id.* Pages 26-29). Meanwhile, the Trustee willfully ignores the conduct and conflicts of interest presented by Mr. Stastney occupying both sides of the Trustee's purported "363 sale" transaction – actively controlling SeeCubic, B.V. and its assets (as sole director) while serving as "stalking horse bidder" for assets *already in his possession, custody, or control*. Even if a third party were to purchase the assets, the Trustee has failed to obtain any assurance that the Hawk Parties will relinquish the Debtors' property or cease their unauthorized use of the Debtors' intellectual property. In open defiance of multiple court orders, the Hawk Parties have refused to turn over the Debtors' assets for years, further undermining the viability of the sale.

⁵ See December 4, 2024 Hearing Transcript at 25:7-14 ("Question: Did you ever do an inventory of the assets of Stream TV? Answer: Well, that was one of the issues in the case that is not typical in a Chapter 11 Trustee case. There were no operations and it was unclear at the time, and remains unclear, exactly which entities of Mr. Rajan's have possession of tangible assets, records, et cetera. So I don't believe Stream TV has certainly any significant tangible assets. And if they do, I have not been aware -- made aware of them or know their location or who is in control of them.")

Bizarrely, the Bankruptcy Court allowed the Trustee’s counsel to unilaterally withdraw (without prejudice) a sanctions motion against VSI that contained a fraudulent and altered exhibit and misrepresentations by counsel regarding the same –over VSI’s objections and notwithstanding the motion being joined as a contested matter. In another troubling move, the Bankruptcy Court forced VSI and Rembrandt to help “fix” the Trustee’s failure to adequately disclose the assets being sold pursuant to the 363 sale by annotating a late-filed and deficient asset listing.

The Trustee chose “the Secured Creditors,” *a.k.a.*, the Hawk Parties, as the proposed stalking horse bidder and acquiesced to allowing their claim of \$180 million (Sale Motion ¶ 30(I)(a)), \$150 million to be used as a credit bid (Sale Motion ¶ 30(I)(b)), despite the dubious nature and amount of the Hawk Parties’ claims and the Trustee’s failure to investigate the conversion of the Hawk Parties’ notes pursuant to a debt-to-equity conversion agreement the Trustee was well aware of.

The Petitioners have repeatedly emphasized that allowing such credit bid was inappropriate on its face. The insider stalking horse bidder should not have been permitted to credit bid in light of the history, facts and circumstances of these cases, the disputes surrounding the legitimacy of its claims, and – most importantly – the stalking horse’s theft and control of the Debtors’ assets before and during the pendency of this bankruptcy case. Designating such a malevolent insider as the stalking horse is wholly inequitable to legitimate creditors and constitutes “cause”

to deny credit bidding rights. Additionally, in these Chapter 11 cases, the credit bid also inevitably chilled bidding, rather than providing any value to the estates, which Courts have found to be cause enough to deny the right to credit bid.

At the hearing to approve the bidding procedures on November 13, 2024, the Bankruptcy Court did not hear testimony or receive other evidence in support of the Trustee's proposed bidding procedures, and the Trustee never filed nor otherwise offered evidence to buttress or rationalize the relief sought in his Bidding Procedures Order (defined below). Indeed, the hearing to approve the Trustee's proposed bidding procedures was not an evidentiary hearing at all.⁶ Rather, at the close of the hearing the Court informed the Petitioners and other parties in interest that the sale hearing to be held on December 4, 2024 to approve the sale transaction would be their opportunity to make their cases. *See* November 13, 2024 Hearing Transcript, Attached hereto as **Exhibit C** 83:12-18 (“THE COURT: Okay. So I'll hear from all of you. Just make sure you put in those briefs. My law clerk is waiting with baited breath to see all of your sale objections because he's got to do a lot of research. So next Friday, okay. We'll be taking a close look at all of that. So please include all of your arguments then”). Notwithstanding the lack of an evidentiary hearing and the absence of any evidentiary support of any kind from the Trustee, the proposed order

⁶ See generally the November 13, 2024 Bidding Procedures hearing transcript, attached hereto as **Exhibit C**.

approving the bidding procedures (the "**Bidding Procedures Order**")⁷, was signed by the Bankruptcy Court and granted exceptional, unsupported, and unwarranted findings and relief that included:

- i. findings that "the Trustee has articulated good and sufficient reasons for authorizing the Bidding Procedures," that such procedures "are fair, reasonable, and appropriate under the circumstances and designed to maximize value of the Assets" (Bidding Procedures Order ¶ B);
- ii. a finding that "the Bidding Procedures were negotiated in good faith and at arm's length and are reasonably designed to promote a competitive and robust bidding process to generate the greatest level of interest in the Assets" (Bidding Procedures Order ¶ B);
- iii. a finding that the Asset Purchase Agreement "was negotiated in good faith an at arm's length between the parties and may serve as a reasonable and appropriate baseline for soliciting other bids for the Assets" (Bidding Procedures Order ¶ C); and
- iv. ordering related relief that "the Trustee shall have no personal liability for any obligations of the Debtors' estates" (Bidding Procedures Order ¶ 21), and that "notwithstanding Bankruptcy Rule 6004(h), the terms

⁷ As entered at Docket No. 811.

and conditions of this Order are immediately effective and enforceable upon its entry” (Bidding Procedures Order ¶ 23).

Mysteriously, the Bankruptcy Court was able to make all of the foregoing findings of fact and conclusions of law and issue the sweeping relief contained in the Bidding Procedures Order without a single piece of evidence. If the November 13, 2024 Bidding Procedures hearing met the legal standard for conducting an evidentiary hearing for a contested matter in satisfaction of the Federal Rules and due process requirements, then it is fair to say that we bankruptcy practitioners have no standard at all.

At the ensuing hearing, on December 4, 2024, VSI and Rembrandt, came prepared to present their witnesses and arguments in accordance with the Bankruptcy Court's promise that the sale hearing would be their opportunity to present their case in chief. However, the Bankruptcy Court denied VSI and Rembrandt this opportunity. First, the Bankruptcy Court severely limited and then curtailed Petitioners cross-examination of the only two witnesses offered by the Trustee in support of his Sale Motion – the Trustee himself and his investment banker at SSG (defined below).⁸ Thereafter, the Court denied VSI and Rembrandt the right to put on witnesses or other evidence in support of their case in chief.⁹

⁸ See December 4, 2024 Sale Hearing Transcript, attached hereto as Exhibit B, 22:25, 23:14.

⁹ See December 4, 2024 Sale Hearing Transcript, attached hereto as Exhibit B, 74:6, 75:13, 76:15-19.

Finally, the Court cut the hearing off without the opportunity for any oral argument, suggesting that “she had heard all she needed to hear” and would read the briefs. *See e.g.* December 4, 2024 Hearing Transcript, attached hereto as **Exhibit B** 50:5-9 (“Okay. And I don’t need to hear from that witness today, and I’m not going to hear from him today. I’m happy to hear all the arguments that you’ve listed in your briefs, but I’m not taking testimony from that gentleman. I don’t need that for part of the sale process.”); *Id.* 74:13-20 (“I don’t have any need to hear from any witnesses about the sale. What I was interested -- if there were any concerns. Like, the concerns I was interested in hearing about today was the sale process, . . . And I’ve heard all of your questions, and I don’t have any concerns about this sale. I don’t.”).

This “sale hearing” failed to meet the standard for an “evidentiary hearing” or afford VSI and Rembrandt any material due process. The Court constricted cross-examination of the Trustee’s only two witnesses in such a manner as to deny any meaningful exposure of the most important facts underlying the proposed sale (i.e. “free and clear” transfer, and “good faith purchaser” status) – and the relief sought most by the Trustee and Proposed Purchaser.

Moreover, at the same December 4, 2024 hearing, the Bankruptcy Court permitted the Trustee to file a materially different form of Sale Order (which modified the “deal terms” originally set forth in the 9019 Agreement) less than three

hours before the hearing without opportunity for sufficient review, let alone adequate opposition or discovery.

Entering the proposed sale order that permits the transfer of non-estate property “free and clear” of liens, claims, and encumbrances and confers “good faith purchaser” status on the stalking horse bidder without an evidentiary record permitting the Court to grant such relief is clearly problematic – indeed, it is fatal to the requested relief. The only evidence the Trustee submitted in support of his requested sale order relief were two declarations (one from the Trustee and one from SSG Advisors, LLC (“**SSG**”) as investment banker), and neither established any facts in support of (i) free and clear transfer or (ii) good faith purchaser status. As noted above, no material cross-examination was permitted by the Court. Also as noted above, the Bankruptcy Court denied VSI’s and Rembrandt’s request to put on evidence to contest the “free and clear” and “good faith” findings.

There have been numerous instances in the Chapter 11 Proceedings in which the Bankruptcy Court took problematic actions and entered problematic orders, as described above, including with respect to the Bankruptcy Court’s repeated refusal to permit Petitioners’ reasonable discovery. On June 16, 2024, Akerman LLP filed a Notice of Appearance as counsel for VSI and promptly filed an Objection to the Motion for Turnover [ECF No. 672 in the Bankruptcy Court Proceedings] (the “**Objection to Turnover**”) and a Motion to Reconsider the order granting the

9019 Agreement [ECF No. 686 in the Bankruptcy Court Proceedings] (the “**Motion to Reconsider**”).

On July 26, 2024, VSI filed and served a Notice of Deposition Duces Tecum on the Trustee concerning the issues raised in the Objection to Turnover and Motion to Reconsider (the “**Original Discovery Requests**”). Among other things, the Original Discovery Requests sought information regarding exhibits to the Trustee’s Motion for Turnover that were clearly altered and representations that were demonstrably false and misleading. Rather than account for the altered exhibit documents and misleading statements in his Motion for Turnover, the Trustee moved to quash the Original Discovery Requests, sought entry of a protective order, and moved to withdraw the offensive Motion for Turnover without prejudice [see ECF No. 724 in the Bankruptcy Court Proceedings].

On September 30, 2024, the Bankruptcy Court entered the *Order Granting Motion to Withdraw Turnover Action* [ECF No. 776 in the Bankruptcy Court Proceedings]. The same day, the Bankruptcy Court entered the *Order Granting Motion to Quash* [ECF No. 777 in the Bankruptcy Court Proceedings]. More recently, at the hearing on November 14, 2024, the Bankruptcy Court entered an order [ECF No. 805 in the Bankruptcy Court Proceedings] denying the reconsideration motion and granting the motion to quash remaining discovery, including discovery relating to the sale process. Effectively, taken together, these

orders have completely denied Petitioners any form of discovery whatsoever, including with respect to the all-important sale process.

Taken together, these orders by the Bankruptcy Court quashed discovery regarding: (i) the 9019 Agreement reconsideration; (ii) the Debtors' engagement of conflicted investment banker, SSG; (iii) the Trustee's failure to enforce the TRO or return assets to the Debtors' estates; (iv) the bid procedures; and most recently, the Trustee's proposed 363 Sale, including but not limited to: (a) assets recovered to the estate, (b) intellectual property assets, (c) bonding machine title, and efforts to control subsidiaries and assets purportedly held there.

STANDARD OF REVIEW

The All Writs Act permits this Court to "issue all writs necessary or appropriate in aid of" its jurisdiction, including mandamus and prohibition. 28 U.S.C. § 1651(a).

Mandamus relief is warranted when (1) the "right to issuance of the writ is clear and indisputable"; (2) the petitioner has "no other adequate means" of obtaining relief; and (3) "the writ is appropriate under the circumstances." *Cheney v. U.S. Dist. Ct. for D.C.*, 542 U.S. 367, 381 (2004) (quotation omitted). Those requirements, "however demanding, are not insuperable." *Id.*

Indeed, the Supreme Court has recognized that mandamus is properly employed to "confine an inferior court to a lawful exercise of its prescribed

jurisdiction or to compel it to exercise its authority when it is its duty to do so.” *Roche*, 319 U.S. at 26. Mandamus may also be used to address “basic” and “undecided” legal questions where district courts are “deeply split on the answer.” *In re Micron Tech., Inc.*, 875 F.3d 1091, 1095 (Fed. Cir. 2017) (citing *Schlagenhauf v. Holder*, 379 U.S. 104, 110 (1964)); *In re BigCommerce, Inc.*, 890 F.3d 978, 981 (Fed. Cir. 2018) (“[M]andamus may be appropriate ‘to further supervisory or instructional goals where issues are unsettled and important.’”)

Section 363(b)(1) of the Bankruptcy Code provides in relevant part that “[t]he trustee, after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate.” Courts generally apply some form of a business judgment test in determining whether to approve a proposed use, sale, or lease of estate property under section 363(b)(1). *See ASARCO, Inc. v. Elliott Mgmt. (In re ASARCO, L.L.C.)*, 650 F.3d 593, 601 (5th Cir. 2011); *In re Stearns Holdings, LLC*, 607 B.R. 781, 792 (Bankr. S.D.N.Y. 2019); *In re Friedman's, Inc.*, 336 B.R. 891, 895 (Bankr. S.D. Ga. 2005); *see generally* Collier on Bankruptcy (“Collier”) ¶ 363.02 (16th ed. 2020).

Section 363(f) of the Bankruptcy Code authorizes a trustee or DIP to sell property “free and clear of any interest in such property of an entity other than the estate,” but only if: (1) applicable non-bankruptcy law permits sale of such property free and clear of such interest; (2) such entity consents; (3) such interest is a lien and

the price at which such property is to be sold is greater than the aggregate value of all liens on such property; (4) such interest is in *bona fide* dispute; or (5) such entity could be compelled, in a legal or equitable proceeding, to accept a money satisfaction of such interest. 11 U.S.C. § 363(f).

Here, these elements are clearly not met. As a primary matter, and as discussed at length below, a debtor (or in this case, the Trustee), cannot sell property unless that property constitutes property of the debtor's bankruptcy estate and, before approving a sale, the bankruptcy court must determine whether the property the debtor proposes to sell constitutes property of the estate – *in an adversary proceeding, not a contested matter*. *In re Whitehall Jewelers Holdings, Inc.*, Case No. 08-11261 (KG), 2008 WL 2951974, at *9 (Bankr. D. Del. July 28, 2008) (citing *Moldo v. Clark (In re Clark)*, 266 B.R. 163, 172 (9th Cir. B.A.P. 2001)). In addition, it is not contested that Rembrandt's intellectual property clearly does not constitute property of the estates.

The case law is clear that the Bankruptcy Court lacks jurisdiction here because (a) it cannot authorize the sale of non-debtor property at all (let alone "free and clear") (See III.A.1 herein), and (b) the Court cannot make a factual determination about "the assets" (estate and non-debtor assets) without any evidence, and as discussed herein at length, the Bankruptcy Court has not attempted to get such evidence or permitted the Petitioners to put on such evidence.

Historically, Section 363(m) of the Bankruptcy Code limits appellate jurisdiction over an unstayed sale order issued by a bankruptcy court to the narrow issue of whether the property was sold to a good faith purchaser. 11 U.S.C. § 363(m); *Contratian Funds LLC v. Aretex LLC (In re WestPoint Stevens, Inc.)*, 600 F.3d 231, 247–48 (2d Cir.2010); *Licensing by Paolo, Inc. v. Sinatra (In re Gucci)*, 105 F.3d 837, 839 (2d Cir.) (“*Gucci I*”), *cert. denied*, 520 U.S. 1196, 117 S.Ct. 1552, 1553, 137 L.Ed.2d 701 (1997); *see also United States v. Salerno*, 932 F.2d 117, 123 (2d Cir.1991); *See Made in Detroit, Inc. v. Official Comm. of Unsecured Creditors of Made in Detroit, Inc. (In re Made in Detroit, Inc.)*, 414 F.3d 576 (6th Cir. 2005); *see also In re Palmer Equip., LLC*, 623 B.R. 804, 808 (Bankr. D. Utah 2020) (section 363(m)’s protection is vital to encouraging buyers to purchase the debtor’s property and thus ensuring that adequate sources of financing are available).

The Third Circuit, has further held that an appeal is not moot as long as it is possible to grant effective relief without impacting the validity of the sale. *See In re ICL Holding Co., Inc.*, 802 F.3d 547, 554 (3d Cir. 2015) (section 363(m) did not moot the government’s appeal of the terms for the ordered distribution of escrowed funds for administrative expenses and settlement proceeds from the sale of substantially all of the debtors’ assets since the court could order redistribution of the sale proceeds without disturbing the sale); *see also In re 388 Route 22 Readington Holdings, LLC*, 2021 WL 4811409, *2 (3d Cir. Oct. 15, 2021) (“Put

simply, § 363(m) moots a challenge to a sale when ‘(1) the underlying sale or lease was not stayed pending the appeal, and (2) the court, if reversing or modifying the authorization to sell or lease, would be affecting the validity of such a sale or lease.’”) (citations omitted), *cert. denied*, 142 S. Ct. 1674 (U.S. 2022); *In re K & D Indus. Servs. Holding Co., Inc.*, 850 F. App’x 966, 968-69 (6th Cir. 2021) (“Because § 363(m) ‘limits appellate review of a consummated sale ... regardless of the merits of legal arguments raised against it,’ and because we cannot grant effective relief without disturbing the sales, the appeals to the district court are moot.”) (citation omitted).

Under Third Circuit case law, § 363(m) moots a challenge to a sale if two conditions are satisfied: “(1) the underlying sale or lease was not stayed pending the appeal, and (2) the court, if reversing or modifying the authorization to sell or lease, would be affecting the validity of such a sale or lease; and “an additional step because we are first required to ask whether the purchaser at the sale ‘purchased ... [the] property in good faith” *Pursuit Capital Mgmt. Fund I v. Burtch (In re Pursuit Capital Mgmt. LLC)*, 874 F.3d 124 (3d Cir. 2017).

Here, the purchaser clearly did not purchase the property in good faith, and the Petitioner was denied the chance to put on evidence to that effect, in violation of its rights to due process.

I. A WRIT OF MANDAMUS SHOULD ISSUE

The Bankruptcy Court was clearly erroneous. The Bankruptcy Court failed to make a finding of good faith, and refused to entertain any evidence demonstrating the absence of good faith, despite manifest examples in the record and Petitioners repeated efforts to raise this concern at every turn. Indeed, in *Visual Semiconductor, Inc.’s Objection to Motion of William Homony in His Capacity as Chapter 11 Trustee for an Order Approving (A) the Sale of the Debtors’ Assets Free and Clear Of All Liens, Claims, Encumbrances, and Other Interests, (B) Approving the Assumption and Assignment of Certain Executory Contracts and Unexpired Leases Related Thereto and (C) Granting Related Relief* [Docket No. 815 in the Bankruptcy Court Case] (the “**VSI Sale Objection**”), VSI laid out this very issue for the court:

Section 363(m) articulates the “good faith” requirement of a Section 363 asset sale. *Abbotts Dairies*, 788 F.2d at 149–50. A court may not find good faith if fraud, collusion or unfair advantages are determined. *Id.* at 147. A good faith purchaser under the Bankruptcy Code is one who purchases assets for value, in good faith, and without notice of adverse claims. *Abbotts Dairies*, 788 F.2d at 147. In determining whether an asset purchaser is entitled to such protections, courts examine “the integrity of his conduct in the course of the sale proceedings.” *Abbotts Dairies*, 788 F.2d at 148. In assessing the good faith of a purchaser, courts have considered factors such as: (1) whether the sale was negotiated at arm’s length; (2) whether any officer or director of the debtor holds any interest in or is otherwise related to the potential purchaser; and (3) whether fraud or collusion exists among the prospective purchaser, any other bidders or the trustee. See *Abbotts Dairies*, 788 F.2d at 147-48. Ironically, the Sale Motion relies heavily on *Abbott Dairies* and cites the types of misconduct that would destroy a purchaser’s good faith status. *Sale Motion* ¶ 64.

The Stalking Horse Bidder, with the Trustee's blessing, has misappropriated the estates assets, availed itself of material nonpublic information, denied prospective bidders material information necessary to make an informed assessment and decision regarding the assets value, and improperly suppressed the assets value; and intentionally chilled the market and bidding for the Debtors' assets.

SeeCubic and the Hawk Parties would fail this test at every level: (1) the sale was not negotiated at arm's length, made particularly evident by SGG's historical relationship with Hawk; (2) Stastney, as chief executive of the SeeCubic as the Stalking Horse Bidder is also the sole director of the Debtors' R&D subsidiary; and (3) as discussed throughout the Declaration and this Objection, there has been collusion between the Trustee and the proposed Stalking Horse Bidder throughout this process.

For the reasons already discussed herein, any acquisition of the Debtors' assets by SeeCubic and Hawk is not in good faith and should not be afforded the protections of section 363(m) of the Bankruptcy Code.

VSI Sale Objection, ¶73-77.

In reviewing the applicability of section 363(m) to a sale of property of the debtor's estate, the question of whether the Hawk Parties are a good faith purchaser is a mixed question of law and fact. See *In re Abbotts Dairies of Pennsylvania, Inc.* 788 F.2d 143, 147 (3d Cir. 1986) (stating standard of review regarding "the question of whether [purchaser] was a good faith purchaser . . . is mixed").

Section 363(m) reads in relevant part:

The reversal or modification on appeal of an authorization under subsection (b) or (c) of this section of a sale or lease of property does not affect the validity of a sale or lease under such authorization to an entity that purchased or leased such property in good faith, whether or not such entity knew of the pendency of the appeal, unless such authorization and such sale or lease were stayed pending appeal.

11 U.S.C. § 363(m) (emphasis added). Section 363(m) renders moot any appeal of an order approving sale of property to a good faith purchaser if “(1) the underlying sale or lease was not stayed pending the appeal, and (2) the court, if reversing or modifying the authorization to sell or lease, would be affecting the validity of such a sale or lease.” *Krebs Chrysler-Plymouth, Inc. v. Valley Motors, Inc.*, 141 F.3d 490, 499 (3d Cir. 1998).

Under section 363(m), a sale of assets may not be reversed or modified if the property was sold to an “entity that purchased . . . [the] property in good faith.” 11 U.S.C. § 363(m). Even if a party fails to obtain a stay of a sale order, that party may still challenge the sale on the grounds that the entity who purchased the property did not do so in good faith. See, e.g., *In re Filtercorp Partners, L.P.*, 163 F.3d 570, 576-77 (9th Cir. 1998); *In re Colony Hill Assocs.*, 111 F.3d 269, 272 (2d Cir. 1997). “‘The requirement that a purchaser act in good faith . . . speaks to the integrity of his conduct in the course of the sale proceedings.’” *Id.* (quoting *In re Rock Industry Machine Corporation*, 572 F.2d 1195, 1197 (7th Cir. 1978).

Because “neither the Bankruptcy Code nor the Bankruptcy Rules attempt to define ‘good faith[,]’ [c]ourts applying section 363(m) . . . have . . . turned to traditional equitable principles, holding that the phrase encompasses one who purchases in ‘good faith’ and for ‘value.’” *In re Abbotts Dairies of Pennsylvania, Inc.*, 788 F.2d 143, 147 (3d Cir. 1986). The Third Circuit has determined that, in

reviewing the “good faith” of a purchaser, the court must first “determine whether there was any impermissible collusion between the purchaser and the debtor.” *Id.* at 151. If there was such collusion, the court “should then determine whether the purchaser paid “value” for the assets purchased.” *Id.* Finally, “if the court determines that [the purchaser] did not pay ‘value,’ it [must] . . . determine whether it has the power to undo the sale to [the purchaser].” *Id.*

It is clear that the Proposed Purchaser – directly or through its Chairman and CEO, Shadron L. Stastney, as an individual – has held wrongful possession and exercised control over the Debtors’ assets for more than 4 years. SeeCubic (a) seized those assets prior and pursuant to a settlement agreement¹⁰ that was found to be void *ab initio* by the Delaware Supreme Court¹¹; (b) retained all significant assets on remand to the Delaware Chancery Court, despite multiple court orders¹², arguing that it should not have to return them because the assets had been improved while in SeeCubic’s wrongful possession¹³; (c) retained computer servers in Silicon Valley that stored not only Stream’s valuable source code, but the intellectual property of Philips and Rembrandt as well¹⁴; (d) controlled all aspects of the Debtors’ technology in the Netherlands by installing SeeCubic CEO Stastney as director of

¹⁰ See 11/22/24 Robertson Declaration at ¶¶ 12, 15-16, 18, 105-106, 111-114, and 117.

¹¹ See 11/22/24 Robertson Declaration at ¶ 21.

¹² See 11/22/24 Robertson Declaration at ¶¶ 24-25 and 28-30.

¹³ See 11/22/24 Robertson Declaration at ¶ 28.

¹⁴ See **Exhibit D**, 11/22/24 Robertson Declaration at ¶¶ 27 and 96-102. See also 12/4/24 Hsu Declaration at ¶¶ 3-4.

the Debtors' three Dutch subsidiaries¹⁵; and (e) executed an improper return of Stream's most valuable tangible asset, the optical bonding equipment, by transferring possession to a non-debtor subsidiary which – under the control of SeeCubic CEO Stastney – refused to surrender the property to Stream during the pendency of these Bankruptcy Cases¹⁶.

SeeCubic attempted to sell the Debtors' assets rather than return them to the Debtors, engaging an investment banker to conduct a UCC Article 9 sale of the assets. The sale was stopped only by injunctive relief and a subsequent status quo order¹⁷.

SeeCubic was found in contempt of court¹⁸ for returning the shares of Technovative stock to Stream while simultaneously coordinating with Stream's secured lender to seize immediate control by appointing SeeCubic CEO Stastney director of Technovative through purported proxy rights, violating the spirit of the Chancery Court's order that Stream was entitled to possess its assets and recommence business in an effort to satisfy its creditors.

¹⁵ See Exhibit D, 11/22/24 Robertson Declaration at ¶¶ 45, 47-52, 54, and 103.

¹⁶ See Exhibit D, 11/22/24 Robertson Declaration at ¶¶ 59 and 86-87.

¹⁷ See Exhibit D, 11/22/24 Robertson Declaration at ¶¶ 23-24 and 37.

¹⁸ See Exhibit D, 11/22/24 Robertson Declaration at ¶¶ 31-32 and 92.

SeeCubic exercised influence wherever possible to ensure that the Debtors' technology was used to develop SeeCubic customer relationships in competition with, and to the detriment of, the Debtors.¹⁹

SeeCubic attempted to register a trademark belonging the Debtors during the pendency of these Bankruptcy Cases, and even during the pendency of the Adversary Case²⁰.

Despite a Bankruptcy TRO in effect since January 4, 2024 and extended on multiple occasions – most recently until January 13, 2025²¹ – SeeCubic continuously and publicly maintained six public websites stating that SeeCubic is the owner of the Debtors' technology²².

As described above, there are many reasons why the Proposed Purchaser cannot receive “good faith” purchaser status. But the absence of any evidence at all in support of a “good faith” designation rings the death bell to conferring such relief:

- i. There was no evidence of “good faith” offered by the Trustee or Proposed Purchaser at the December 4, 2024 sale hearing;
- ii. There was no evidence of “good faith” offered by the Trustee or Proposed Purchaser at the November 13, 2024 hearing on the bid procedures (because it was not an evidentiary hearing, and nothing was submitted by any party in support of a “good faith” finding);

¹⁹ See **Exhibit D**, 11/22/24 Robertson Declaration at ¶¶ 38, 51, and 61.

²⁰ See Adversary Case 23-00057-amc, Debtors' Exhibit 71. See also **Exhibit E**, 11/27/23 Hearing Transcript at 53:1-57:18.

²¹ Adversary Case 23-00057-amc, ECF 157.

²² See **Exhibit D**, 11/22/24 Robertson Declaration at ¶ 107.

- iii. The order entered by the Bankruptcy Court approving the bid procedures was entered without any evidence, and nevertheless made “good faith” findings regarding the proposed sale transaction;
- iv. As described herein, SeeCubic, Inc., Shadron Stastney, and Hawk have all engaged in TRO violations, stay violations, and other inequitable conduct making them ineligible for “good faith” purchaser status;
- v. Stastney & SeeCubic, Inc. misappropriated and systematically exercised dominion and control over the Debtors’ assets, and thus the “transfer” of assets occurring through the proposed 363 sale is simply a transfer of title.²³

The Bankruptcy Court failed to examine whether or not the Proposed Purchaser was a “good faith” purchaser, despite clear evidence that the Proposed Purchaser was not, and over repeated cries from Petitioners to do so. Thus, the Bankruptcy Court was clearly erroneous.

In addition to the above defects with respect to “good faith” purchaser status, there are extensive defects regarding section 363(f) of the Bankruptcy Code, namely that the assets cannot be sold “free and clear”. As an initial matter, in the asset purchase agreement proposed by the Trustee, the Trustee proposes to sell all assets of the Debtors’ estates (with minor exceptions), but then ignores the fact that Rembrandt’s property is embedded within the StreamTV estate property he purports

²³ Stastney, SeeCubic, and Hawk failed to testify or otherwise submit evidence of good faith. The Bankruptcy Court denied any and all efforts to adduce evidence regarding SeeCubic and Stastney’s bad faith. The Bankruptcy Court Proceeding record establishes that there is cause to believe that Stastney, SeeCubic, Inc., and Hawk engaged in conduct that (i) violated applicable DE state court orders, (ii) violated the automatic stay, (iii) violated the Bankruptcy Court’s December 2023 World-wide Stay, and (iv) violated the Bankruptcy Court’s TRO with respect to StreamTV estate property.

to sell – this is illegal, contrary to controlling legal authority²⁴, and does not qualify under any of the statutory sections set forth in 363(f). Further, the Trustee has offered no evidence that such proposed 363(f)²⁵ sale qualifies under any of that Code section’s statutory provisions: (i) there was no evidence in either the Trustee’s declaration or the investment banker’s declaration that the assets being sold as part of the 363 sale were property of the Debtors’ estates and had no encumbrances by any other party (such as trade secrets and patent licensors, Rembrandt or Philips); and (ii) there was no evidence at the December 4, 2024 sale hearing that the Trustee had any meaningful understanding of the Debtors’ assets that the Trustee was purporting to “sell”, let alone an understanding for how those assets may be encumbered. Indeed, the limited cross-examination opportunity afforded by the Court demonstrated that the Trustee was not aware of and did not investigate assets in California that were being transferred despite containing non-estate property (specifically Rembrandt’s trade secrets and other IP contained within the StreamTV production code housed on the California-based servers).²⁶ Moreover, the limited cross-examination established that the Trustee falsely asserts that the only asset

²⁴ See e.g. *In re Whitehall Jewelers Holdings, Inc.*, Case No. 08-11261 (KG), 2008 WL 2951974 (Bankr. D. Del. July 28, 2008); *SLW Capital, LLC v. Mansaray-Ruffin (In re Mansaray-Ruffin)*, 2008 WL 2498048(3d Cir. June 24, 2008)

²⁵ Section 363(f) of the Bankruptcy Code authorizes a trustee or DIP to sell property "free and clear of any interest in such property of an entity other than the estate," but only if: (1) applicable non-bankruptcy law permits sale of such property free and clear of such interest; (2) such entity consents; (3) such interest is a lien and the price at which such property is to be sold is greater than the aggregate value of all liens on such property; (4) such interest is in *bona fide* dispute; or (5) such entity could be compelled, in a legal or equitable proceeding, to accept a money satisfaction of such interest. 11 U.S.C. § 363(f). As discussed herein, none of these elements are met.

²⁶ See December 4, 2024 hearing transcript page 38, line 3 – 7.

being transferred by StreamTV is the bonding machine (notwithstanding evidence that SeeCubic, Inc. and Shad Stastney previously stole and continue to possess property of the estate (e.g. TVs, tablets, and source code)).^{27 28}

II. A WRIT OF PROHIBITION SHOULD ISSUE.

The requirements for a writ of prohibition are similar to those for mandamus. A Writ of Prohibition involves a proceeding between an inferior court and a superior court, as a result of which the superior court exercises control to prevent the inferior court from exceeding the limits of its powers and jurisdiction.” *Yohn*, 76 F.3d at 521. *Title 42 Pa.R.A.P. Rule 3307* outlines the method by which a party seeking a writ of prohibition must comply. In order for the Writ of Prohibition to be granted, the party seeking such relief must satisfy a two-pronged test established in *Carpentertown Coal and Coke Co., et. al. v. Laird*, 61 A.2d 426 (Pa. 1948). First, there must be no adequate remedy at law; second, there must be extreme necessity for the relief requested to secure an order and regularity in the judicial process. *Larsen v. Kaufman*, 579 A.2d 1302, 1307 (Pa. 1990), citing *Carpentertown*, *supra*. These elements are clearly met here, for the reasons discussed below.

A petitioner seeking a writ of prohibition must demonstrate that: “(1) no other adequate means exist to attain the relief [s]he desires, (2) the party’s right to issuance

²⁷ See December 4, 2024 hearing transcript page 28, line 9 – 18

²⁸ See 11/22/24 Robertson Declaration attached hereto as Exhibit D, at ¶¶ 12, 15-16, 18, 105-106, 111-114, and 117.

of the writ is clear and indisputable, and (3) the writ is appropriate under the circumstances.” *Hollingsworth v. Perry*, 558 U.S. 183, 190, 130 S.Ct. 705, 175 L.Ed.2d 657 (2010) (internal quotations omitted).

A court may issue a writ of prohibition where a lower court has "assumed jurisdiction of a matter beyond its legal cognizance." *Smith v. Whitney*, 116 U.S. 167, 176, 29 L. Ed. 601, 6 S. Ct. 570, 574 (1886). The writ should not be issued when the plaintiff has an adequate alternative remedy. *See In re Centrotexil*, 620 F.2d 690, 691 (8th Cir. 1980). The writ of prohibition, like the writ of mandamus, is an extraordinary writ, and the power to issue it should be "sparingly exercised." *See Parr v. United States*, 351 U.S. 513, 520, 100 L. Ed. 1377, 76 S. Ct. 912, 916(1956). Stated differently, a writ of prohibition may be issued to (i) prevent a lower court from interfering with the higher court’s determination of a case pending appeal, (ii) prohibit a lower court from issuing orders in matters over which the lower court has no jurisdiction.

The case at bar is clearly a good candidate for the writ of prohibition: First, if the District Court issues the relief requested herein with respect to the stay pending appeal, then the District Court will hear Petitioners' arguments as described herein, and thus the Bankruptcy Court should be prohibited from entering the Sale Order. This is simply intuitive, as one proceeding should bar the other.

Further, as described herein at length, the Bankruptcy Court does not have the authority to authorize the transfer of assets that do not constitute property of the estate under section 541 of the Bankruptcy Code. A writ of prohibition is appropriate when "the proceedings of any tribunal, corporation, board or person exercising judicial functions. . . . are without or in excess of the jurisdiction of such tribunal, corporation, board or person." *Alper v. Eighth Judicial Dist. Court of Nev.*, 131 Nev. 430, 433, 352 P.3d 28, 30 (2015); *Lawrence v. United States Bankr. Court*, 153 F. App'x 552, 554 (11th Cir. 2005) (A writ of prohibition "affords an expeditious and effective means of confining an inferior court to a lawful exercise of its prescribed jurisdiction or compelling a court to exercise its authority"); *Williams v. Minnesota*, No. 24-cv-2548 (NEB/DJF), 2024 U.S. Dist. LEXIS 181871, at *2 (D. Minn. Aug. 8, 2024), citing *State of Missouri v. United States Bankruptcy Court for the E.D. of Ark.*, 647 F.2d 768, 770 n.3 (8th Cir. 1981) (citing *Ex Parte Republic of Peru*, 318 U.S. 578, 583, 63 S. Ct. 793, 87 L. Ed. 1014 (1943)). Specifically here, the Bankruptcy Court does not possess the authority to transfer Rembrandt's intellectual property (trade secrets and patent-protected technology) embedded in the Debtors' source code, production code, and other physical assets (e.g. TVs, tablets, phones, and computer servers).

As described at length herein and in Petitioners' pleadings, a debtor (or in this case, the Trustee), may not sell property unless that property constitutes property of

the debtor's bankruptcy estate and, before approving a sale, the bankruptcy court must *first* determine whether the property the debtor proposes to sell constitutes property of the estate. *In re Whitehall Jewelers Holdings, Inc.*, Case No. 08-11261 (KG), 2008 WL 2951974, at *9 (Bankr. D. Del. July 28, 2008) (citing *Moldo v. Clark (In re Clark)*, 266 B.R. 163, 172 (9th Cir. B.A.P. 2001)). Moreover, the Bankruptcy Court could not determine whether the assets he plans to sell are (i) property of the estate or (ii) Rembrandt's intellectual property incorporated into the Debtor's technology through a simple contested matter (such as the contested Sale Motion). Rather that determination requires an adversary proceeding in order to afford the third-party non-debtor the full panoply of due process rights *in advance* of depriving them of their property through a court-ordered 363 sale. See *Id.* (citing *In re SLW Capital, LLC v. Mansaray-Ruffin (In re Mansaray-Ruffin)* 2008 WL 2498048 (3d Cir. June 24, 2008) at *12). Accordingly, legal precedent, due process, and fundamental fairness militate against permitting the Bankruptcy Court to enter the Sale Order, particularly upon the paucity of evidence on the record and in support of the Trustee's order.

III. THE COURT SHOULD STAY THE SALE ORDER PENDING APPEAL.

Ordinarily, a motion requesting a stay must be made in the bankruptcy court (Fed. R. Bankr. P. 8007(a)(1)). The movant may bypass the bankruptcy court only if “moving first in the bankruptcy court would be impracticable” (Fed. R. Bankr. P.

8007(b)(2)(A)). The circumstances of this case clearly meet this standard. To make a showing of impracticability, it should be demonstrated that it “was not practicable to seek relief from the bankruptcy court” and require “a showing that . . .to be effective, relief must be immediate, and that based upon what occurred in the bankruptcy court, relief from it is improbable.” *Beeman v. BGI Creditors’ Liquidating Tr. (In re BGI, Inc.)*, 504 B.R. 754, 761 (S.D.N.Y. 2014) (citing 10 Alan N. Resnick & Henry J. Sommer, *Collier on Bankruptcy* ¶ 8005.11, at 10-8005 (16th ed. 2013) (quotation marks and brackets omitted)). Here, the Bankruptcy Court has made it abundantly clear that the Sale Order is to be entered imminently, which order would make relief impossible.

In considering whether to grant a stay pending appeal, courts consider the following four factors: (1) whether the appellant has made a strong showing of the likelihood of success on the merits; (2) will the appellant suffer irreparable injury absent a stay; (3) would a stay substantially harm other parties with an interest in the litigation; and (4) whether a stay is in the public interest. *See, e.g., Republic of Phil. v. Westinghouse Electric Corp.*, 949 F.2d 653, 658 (3d Cir.1991); *In re Revel AC, Inc.*, 802 F.3d 558, 565 (3d Cir. 2015); *See also Nken v. Holder*, 556 U.S. 418, 426 (2009) (same). In its decision in *Nken v. Holder*, the Supreme Court stated that the first two factors are “the most critical factors” to be considered, *Revel*, 802 F.3d at 568 (citing *Nken*), but all four factors weigh in favor of a stay in the present case.

And there is a recognized hierarchy within the Supreme Court’s two most critical factors. Courts “balance . . . and consider the relative strength of the four factors,” while recognizing that the first factor, likelihood of success, is the most important one. *Revel*, 802 F.3d at 568. *See also* 16A Charles Alan Wright *et al.*, *Federal Practice and Procedure* § 3954 (5th ed. 2024 update) (“The four factors should be balanced; thus, for example, if the balance of harms tips heavily enough in the stay applicant’s favor then the showing of likelihood of success need not be as strong, and vice versa.”).

a. Petitioners Have a High Likelihood of Success on the Merits

Beyond the fact that the Proposed Purchaser is not a “good faith” purchaser, as discussed at length herein, there are multiple other reasons why Petitioners have a high likelihood of success on the merits for a determination that the Sale Transaction cannot go forward.

This is because (a) the Trustee may not sell the Debtors’ property unless that property constitutes property of the Debtors’ estates and, before approving a sale, a court must first determine whether such property constitutes property of the estates; (b) the 9019 Agreement and Sale Motion taken together constitute an improper *sub rosa* plan of reorganization that cannot be approved; and (c) the proposed sale process is neither fair nor reasonable and is subject to a heightened scrutiny standard.

1. The Trustee may not sell the Debtors' property unless that property constitutes property of the Debtors' estates and, before approving a sale, the Court must first determine whether such property constitutes property of the estates.

The Bankruptcy Court has failed to address whether the assets were property of the estate, despite clear and plentiful evidence to the contrary. It is widely accepted, in addition to being firmly intuitive, that the Bankruptcy Code does not expand a debtor's interests in property beyond what such interests were at the petition date. *Jones v. GE Capital Mortgage Co. (In re Jones)*, 179 B.R. 450, 455 (Bankr. E.D. Pa. 1995) (“[T]he owner of an insurance policy cannot obtain greater rights to the proceeds of that policy than he would have under state law by merely filing a bankruptcy petition”) (citing *First Fid. Bank v. McAteer*, 985 F.2d 114, 117 (3d Cir. 1993)); *See also Moody v. Amoco Oil Co.*, 734 F.2d 1200, 1213 (7th Cir. 1984) (“[W]hatever rights a debtor has in property at the commencement of the case continue in bankruptcy -- no more, no less.”), cert denied, 469 U.S. 982 (1984); *Mission Prod. Holdings, Inc. v. Tempnology, LLC*, 139 S. Ct. 1652, 1663, 203 L. Ed. 2d 876 (2019) (recognizing the “general bankruptcy rule [that] the estate cannot possess anything more than the debtor itself did outside bankruptcy” and that “[a] debtor's property does not shrink by happenstance of bankruptcy, but it does not expand, either.”).

A debtor (or in this case, the Trustee), may not sell property unless that property constitutes property of the debtor's bankruptcy estate and, before approving

a sale, the bankruptcy court must determine whether the property the debtor proposes to sell constitutes property of the estate – *in an adversary proceeding, not a contested matter*. *In re Whitehall Jewelers Holdings, Inc.*, Case No. 08-11261 (KG), 2008 WL 2951974, at *9 (Bankr. D. Del. July 28, 2008) (citing *Moldo v. Clark (In re Clark)*, 266 B.R. 163, 172 (9th Cir. B.A.P. 2001)).

This is Third Circuit law.²⁹ Bankruptcy courts have consistently made this finding. *See also Anderson v. Conine (In re Robertson)*, 203 F.3d 855 (5th Cir. 2000) (holding that Section 363(f) does not allow a trustee to sell property that is not property of the estate); *In re Worcester Country Club Acres, LLC*, 655 B.R. 41, 47 (Bankr. D. Mass. 2023) (holding that because the ownership of the land was disputed, it “must be adjudicated in order to determine if they are property of the Debtor’s bankruptcy estate, they cannot be sold under § 363(b) or (c) and pursuant to § 363(f)(4) prior to a resolution of those issues.”); *In re Coburn*, 250 B.R. 401, 403 (Bankr. M.D. Fla. 1999) (it was necessary to determine whether an asset was property of the estate in order to then decide whether the trustee was entitled to sell the asset pursuant to Section 363(f)); *Darby v. Zimmerman (In re Popp)*, 323 B.R. 260, 266 (B.A.P. 9th Cir.2005); *Fresh Prepared Foods, Inc. v. Farm Ridge Foods*

²⁹ *SLW Capital, LLC v. Mansaray-Ruffin (In re Mansaray-Ruffin)*, 2008 WL 2498048(3d Cir. June 24, 2008) at *1. In *SLW Capital*, a debtor included a provision in the confirmed plan which invalidated a mortgage assignee’s claim for a secured interest. The Third Circuit held that lien invalidation can occur only through litigation in an adversary proceeding which provides greater procedural protection and, therefore “the adversary proceeding Rule at issue here is mandatory and establishes a right to specific process that must be afforded. Its mandatory nature is grounded in principles of due process that trump ‘finality.’” *Id.* at *6.

LLC, 2013 WL 4804816, at *3 (D.N.J. Sept. 9, 2013) (“it is well-settled that a ‘bankruptcy court may not allow the sale of property as ‘property of the estate’ without first determining whether the debtor in fact owned the property”). A sale under Section 363 “cannot be had when there is an unresolved issue of whether the subject property is ‘property of the estate’” *In re Interiors of Yesterday, LLC*, Case No. 02-30356 (LMW) , 2007 WL 419646 (Bankr. D. Conn. Feb. 2, 2007). *See also Warnick v. Yassian (In re Rodeo Canon Dev. Corp.)*, 362 F.3d 603, 605–06 (9th Cir. 2004), withdrawn and modified by 126 Fed. App’x 353 (9th Cir. 2005) (this Court “may not allow the sale of property as ‘property of the estate’ without first determining whether the debtor in fact owned the property.”); *Ross v. A V Car & Home, LLC (In re Brown)*, Case No. 16-00466, A.P. No. 18-10026, 2019 Bankr. LEXIS 286, 2019 WL 413625, at *3 (Bankr. D.C. Jan. 30, 2019) (court may not authorize sale of property where ownership of a portion of the property is in dispute).

Further, it is the trustee who bears the burden of establishing that the property to be sold is property of the estate under Section 363(b). *See, e.g., In re Whitehall Jewelers Holdings, Inc.*, 2008 WL 2951974, at *17 (Bankr. D. Del. July 28, 2008) (holding that the debtors failed to meet their burden of establishing that the assets were property of the estate, and therefore were not permitted to sell the goods under Section 363(f)(4)).

The Trustee has not even attempted to meet that burden: In the December 4, 2024 hearing on the Sale Motion, VSI repeatedly asked the Trustee whether an extensive inventory had ever been conducted regarding the Debtors' assets and those that might belong to VSI. The Trustee provided vague responses (*See e.g.* Hearing Transcript December 4, 2024 25:5-13 (Q: Did you ever do an inventory of the assets of Stream TV? A: Well, that was one of the issues in the case that is not typical in a Chapter 11 Trustee case. There were no operations and it was unclear at the time, and remains unclear, exactly which entities of Mr. Rajan's have possession of tangible assets, records, et cetera. So I don't believe Stream TV has certainly any significant tangible assets. And if they do, I have not been aware -- made aware of them or know their location or who is in control of them.")). The Trustee mischaracterizes "*as is, where is*" to absolve himself of his obligations to the estate. "*As is, where is*" describes the assets condition, not the estate's title or the Trustee's authority to convey.

The Bankruptcy Court also failed to address whether the assets were property of the estate, despite clear evidence to the contrary. In fact, it is evident that, as described herein, the trustee is attempting to sell the assets on an "*as-is, where-is*" basis, without understanding (i) where a significant portion of the Debtors' assets are located, (ii) which of the Debtors' trade secrets the Hawk Parties have used and continue to use, (iii) if the Hawk Parties will turn over the Debtors' property to a

successful bidder other than the stalking horse, and (iv) if the Hawk Parties will stop using the trade secrets once a sale to the Proposed Purchaser has been completed.

Despite all the evidence to the contrary, the Bankruptcy Court failed to properly address whether the property is that of the Debtors' estates under section 541 of the Bankruptcy Code. In fact, faced with this issue at the December 4, 2024 hearing, , the Bankruptcy Court repeatedly stated that the inquiry was not "relevant." *See e.g.* Hearing Transcript December 4, 2024 38:3-24 (when cross-examining the Trustee about certain critical Debtor software assets (i.e. Stream production code embedded with Rembrandt source code house on servers in California), the Court interjected "Well, who cares? All that we care about are assets now. All right?" and went on to declare "you're talking about some servers from California. I don't really understand how its relevant." Hearing Transcript December 4, 2024 40:10-12).

2. The 9019 Agreement and Sale Motion taken together constitute an improper *sub rosa* plan of reorganization that cannot be approved by this Court.

Further, it is evident that the sale transaction contemplated by the Sale Motion is sale that cannot be approved, as it clearly constitutes an impermissible *sub rosa* plan of reorganization that strips the Debtors' creditors of the protections of the Bankruptcy Code and improperly attempts to extinguish their rights without their consent.

When a sale process and/or settlement in bankruptcy has the ultimate effect of dictating the terms of any future reorganization plan, the bankruptcy court must deem the transaction impermissible because it short circuits the requirements of Chapter 11 by establishing the terms of the plan *sub rosa* in connection with a sale of assets. “The hallmark of such a plan is that it dictates the terms of a reorganization plan.” *Energy Future Holdings Corp. v. Del. Tr. Co.*, 648 F. App’x 277 (3d Cir. 2016). This is because it “short circuits” the requirements of Chapter 11 by establishing the terms of the plan *sub rosa* in connection with a sale of assets. *In re Braniff Airways, Inc.*, 700 F.2d 935, 940 (5th Cir. 1983).

Thus, *sub rosa* plans are prohibited because they violate the requirements of the Chapter 11 process. *Motorola Inc. v. Official Comm. Of Unsecured Creditors and JP Morgan Chase (In re Iridium Operating LLC)*, 478 F.3d 452, 466 (2d Cir. 2007); *In re Crowthers McCall Pattern, Inc.*, 114 B.R. 877, 887 (Bankr. S.D.N.Y. 1990) (“A transaction which would effect a lock-up of the terms of a plan will not be permitted.”). Where a settlement circumvents creditors’ rights to vote on key provisions, that settlement can be said to dictate the terms of a plan. *See Official Comm. of Unsecured Creditors v. Cajun Elec. Power Coop. by & Through Mabey (In re Cajun Elec. Power Coop.)*, 119 F.3d 349, 355 (5th Cir. 1997).

This is precisely the circumstance of this case. The terms of the proposed sale process, as outlined in the 9019 Agreement and in the Sale Motion, clearly constitute

a *sub rosa* plan of reorganization. Among other things, the sale seeks to improperly channel consideration to specific creditor groups – as discussed herein, the Trustee has selected the Hawk Parties as the stalking horse and agreed to give them an allowed claim of \$180 million, \$150 million of which may be used as a credit bid. This is blatantly at the expense of the Debtors’ other creditors – pursuant to the 9019 Agreement, \$7,500,000 would be carved out to pay administrative and general unsecured creditors. Notably, if a bid is accepted over the stalking horse bid, only 10% of that overbid goes to administrative or unsecured creditors until Hawk’s \$180 million claim is paid in full. As such, it essentially ensures that the Debtors’ unsecured creditors, and perhaps even administrative expense claimants, receive pennies on the dollar. Such a restructuring of creditors’ rights and diversion of value is impermissible in the context of a 363 sale. *See PBGC v. Braniff Airways, Inc. (In re Braniff Airways, Inc.)*, 700 F.2d 935, 940 (5th Cir. 1983) (“The debtor and the Bankruptcy Court should not be able to short circuit the requirements of Chapter 11 for confirmation of a reorganization plan by establishing the terms of the plan *sub rosa* in connection with a sale of assets.”).

Further, the Debtors impermissibly seek to use the 363 Sale to bind the Debtors’ creditors to a treatment of their claims without having that proposed treatment tested by the standards of the Bankruptcy Code. Such a proposed sale cannot proceed. See, e.g., *In re Westpoint Stevens Inc.*, 333 B.R. 30, 52 (S.D.N.Y.

2005) (“Where it is clear that the terms of a section 363(b) sale would preempt or dictate the terms of a Chapter 11 plan, the proposed sale is beyond the scope of section 363(b) and should not be approved[.]”); *Institutional Creditors of Cont’l Air Lines, Inc. v. Cont’l Air Lines, Inc. (In re Cont’l Air Lines, Inc.)*, 780 F.2d 1223, 1226-28 (5th Cir. 1986) (same).

Quite simply, a 363 sale is not a substitute for a plan of reorganization. *See Westpoint Stevens Inc.*, 333 B.R. at 52 (noting when a proposed transaction specifies terms for a reorganization plan, the parties and the court “must scale the hurdles erected in Chapter 11”) (citation omitted); *see also In re Iridium Operating LLC*, 478 F.3d 452, 466 (2d Cir. 2007) (The “trustee is prohibited from such use, sale or lease if it would amount to a *sub rosa* plan of reorganization.”); *In re Abbotts Dairies of Pa., Inc.*, 788 F.2d 143 (3d Cir. 1986) (finding that section 363 does not permit a debtor to abrogate the protections afforded creditors by section 1129 and the plan confirmation process).

The Debtors bear the burden to prove that the proposed sale is fair, equitable, in the interest of the estates, and not unfair to the creditors. The proposed sale fails each of these requirements.

3. The Proposed Sale Process is Neither Fair nor Reasonable and is Subject to a Heightened Scrutiny Standard.

Petitioners have been repeatedly criticized in these Chapter 11 Cases for allegedly “making noise”, yet this characterization fails to acknowledge the

underlying frustration borne from a sense of being ignored regarding clearly fatal flaws in this sale process. The proposed buyer is an insider with a well-documented history of misconduct relating to the assets proposed to be sold. The Bankruptcy Court has failed to address the Proposed Purchaser's insider status.

SeeCubic is certainly an insider with respect to the Debtors. Indeed, SeeCubic has exerted an inordinate amount of control over the Debtors' assets and sale process, and has time and time again violated the automatic stay and the Bankruptcy TRO in place. Control of SeeCubic rests with Stastney, who was both Vice Chairman of the Board of Directors and Chief Financial Officer of Debtor Stream shortly before he orchestrated an asset takeover with the Hawk Parties through the invalidated Omnibus Agreement. Stastney had access to the Debtors' financials, sensitive customer information, investor database, and other critical data. He siphoned key personnel from the Debtors and ultimately used the Dutch court system to install himself as director of the Debtors' R&D subsidiary, a position he uses today to exert control over the Debtors' engineering development activities. *See Robertson Declaration* ¶¶ 7, 33, 54, attached hereto as **Exhibit D**.

Transactions involving insiders are subject to a heightened level of scrutiny. *See Crown Vill. Farm, LLC v. Arl. L.L.C. (In re Crown Vill. Farm, LLC)*, 415 B.R. 86, 93 (Bankr. D. Del. 2009) (holding that "[t]he sale process will be under the close scrutiny of the Court as required where the stalking horse is an insider"); *Citicorp*

Venture Capital, Ltd. v. Comm. of Creditors Holding Unsecured Claims (In re Papercraft Corp.), 211 B.R. 813, 823 (W.D. Pa. 1997), *aff'd*, 160 F.3d 982 (3d Cir. 1998) (“[I]nsider transactions are subjected to rigorous scrutiny and when challenged, the burden is on the insider not only to prove the good faith of a transaction but also to show the inherent fairness from the viewpoint of the corporation and those with interests therein.”); *In re Bidermann Indus. U.S.A.*, 203 B.R. 547, 551 (Bankr. S.D.N.Y. 1997) (sales to insiders “are necessarily subjected to heightened scrutiny because they are rife with the possibility of abuse”) (internal quotations omitted); *In re Summit Global Logistics, Inc.*, 2008 Bankr. LEXIS 896, 26-29 (Bankr. D.N.J. Mar. 26, 2008) (recognizing “the heightened scrutiny required for insider transactions”); *In re Univ. Heights Ass’n*, 2007 Bankr. LEXIS 1200, at *13 (Bankr. N.D.N.Y. Jan. 22, 2007) (“[B]ecause we are dealing with potential insiders . . . the proposed sale is subject to heightened scrutiny.”).

This heightened scrutiny also applies to a sale proposed by a trustee, rather than a debtor in possession. *In re Blixseth*, No. 09-60452, 2010 Bankr. LEXIS 585 (Bankr. D. Mont. Feb. 23, 2010). In *Blixseth*, the court refused to approve a sale of property as proposed by the trustee to a secured creditor credit-bid. The court found that the creditor had “very close ties to the debtor” and refused to apply the standard applicable to non-insider sales or to give deference to the trustee’s business judgment. Instead, the court applied the more rigorous *Bidermann* standard for

evaluating insider transactions. As such, the court denied the bidding procedures proposed by the trustee. In applying heightened scrutiny, courts are concerned with “the integrity and entire fairness of the transaction at issue, typically examining whether the process and price of a proposed transaction not only appear fair but are fair and whether fiduciary duties were properly taken into consideration.” *In re Innkeepers USA Trust*, 442 B.R. 227, 231 (Bankr. S.D.N.Y. 2010).

This transaction would not withstand heightened scrutiny. As in *Bidermann*, SeeCubic and the Hawk Parties clearly have “very close ties” to the Trustee. As detailed herein and in the SSG Objection, the Hawk Parties have a long history of improperly possessing the Debtors’ property. Indeed, to this day, the Hawk Parties are using and possessing the Debtors’ property contrary to this Court’s orders, specifically including the TRO that in effect through November 12, 2024. If this Court were to examine “the integrity and entire fairness of the transaction at issue” it could not reasonably conclude that this transaction was acceptable.

The Bankruptcy Court did not apply a heightened scrutiny standard in examining the transaction, and has not considered these arguments in the Bankruptcy Court Proceedings.

b. Petitioners will Suffer Irreparable Harm if Enforcement of the Sale Order is Not Stayed Pending Appeal

Because likelihood of success - the most important of the factors - is strong, the other interests that this court must balance are less important. *Revel, Wright &*

Miller, 802 F.3d at 568. Nevertheless, the other three factors also support a stay. Absent a stay, Petitioners will be irreparably harmed by the Sale Transaction and the related deprivation of their procedural and due process rights.

Allowing the sale process to go forward would be devastating to Petitioners. Although Section 363 of the Bankruptcy Code allows a debtor to sell its bankruptcy assets free and clear of liens and interests, that privilege exists only if certain circumstances are met. In a case with facts similar to those at bar, *In re DeCurtis Holdings LLC*, the United States Bankruptcy Court for the District of Delaware ultimately enjoined the sale and use of the assets by the debtor, finding that the sale would result in irreparable harm to the objecting entity and money damages would not compensate for the harm. *In re DeCurtis Holdings*, 2023 WL 5153645, at *22; 11 U.S.C. § 363 (f) (providing "such entity could be compelled, in a legal or equitable proceeding, to accept a money satisfaction of such interest"; where on a debtor's motion to sell assets pursuant to section 363 of the Bankruptcy Code, a permanent injunction was found to be appropriate to prohibit the debtor's sale, disclosure, or use of the information incorporated into the assets because misappropriation of confidential business information could cause irreparable harm, as could violation of a restrictive covenant, loss of control over reputation, and loss of goodwill.)

Injury that “cannot be undone through monetary remedies” is irreparable. *Boggs Contracting, Inc. v. Freismuth*, 2021 U.S. Dist. LEXIS 252335, at *9 (M.D. Fla. Dec. 27, 2021). Here, the Hawk Parties’ conduct caused and continues to cause several “hard-to-measure harms, such as impaired goodwill and competitive position, that can justify injunctions.” *Tex. Advanced Optoelectronic Sols., Inc. v. Renesas Elecs. Am., Inc.*, 895 F.3d 1304, 1331 (Fed. Cir. 2018).

As a primary matter, an owner’s “loss of control over its intellectual property rights” is a prototypical form of irreparable harm. *E.g., Lead Creation Inc. v. P’ships & Unincorporated Ass’ns Identified on Schedule A*, 2023 U.S. Dist. LEXIS 25025, at *12 (M.D. Fla. Feb. 14, 2023). “The right to exclude competitors from using one’s property rights is important,” and “the need to protect this exclusivity” warrants an injunction. *E.g., Apple Inc. v. Samsung Elecs. Co.*, 809 F.3d 633, 642 (Fed. Cir. 2015); *accord News Am. Mktg. In-Store, LLC v. Emmel*, 429 F. App’x 851, 853 (11th Cir. 2011) (unpublished) (permanent injunction barring defendant from any further disclosures of confidential information); *Marine Turbo Eng’g, Ltd. v. Turbocharger Servs. Worldwide, LLC*, 2012 U.S. Dist. LEXIS 200492, at *31-32 (S.D. Fla. 2012) (“some form of permanent injunction is appropriate with regard to [defendant’s] use of Plaintis’ Confidential Information”).

Further, the injury to competitiveness caused by misappropriation of valuable confidential information is a classic form of irreparable harm, as such injury cannot

be reversed or repaired. *G4S Secure Integration LLC v. United States*, 161 Fed. Cl. 387, 418 (2022) (“lost opportunity to compete on a level playing field” found sufficient to prove irreparable harm).

c. A Stay Pending Appeal Would Not Substantially Harm Other Parties with an Interest in the Litigation

The harm to other persons consists of an inability to carry out the Sale Transaction in the precise manner in which it was designed by the Trustee, to the Hawk Parties’ sole benefit. The Debtors themselves are arguably are not harmed by the stay pending appeal, and may ultimately benefit. The Trustee designed the sale process to benefit just the Hawk Parties, in contravention with his mandate to maximize the benefits to the Debtors and their estates. As discussed above, the sale transaction as contemplated in the sale motion would be harmful to other parties in interest, including the Debtors and their creditors.

d. A Stay Pending Appeal is in the Public Interest

There is public interest in the finality of proceedings in the bankruptcy court as all courts. But there is an equal public interest in resolution of material disputed issues of law that can cause irreparable injury to the parties before that irreparable injury occurs.

Beyond these general public interest concerns, there is the fact that the proposed sale transaction is clearly against the public interest: the sale process contemplated by the Sale Motion disproportionately benefits the Proposed Purchaser

at the expense of all other stakeholders. The proposed Sale Motion results in the Debtors' assets being unjustly distributed to the Hawk Parties, in blatant contravention of the primary goal of maximizing recoveries for all creditors. As described herein, the sale process as contemplated was inappropriate on its face. The insider stalking horse bidder should not have been permitted to credit bid given the facts and circumstances of these cases and the disputes surrounding the legitimacy of its claims. This is wholly inequitable to legitimate creditors and constitutes "cause" to deny credit bidding rights.

Finally, a stay is in the public interest because it affords comfort and confidence that the nation's bankruptcy courts are courts of law, that procedural and substantive due process are always required, that evidence matters, and that mistakes, misjudgments, and injustice can be remedied – even if and when speed and finality are important. Unsecured creditors in this case and future litigants confronting these issues will have the assurance that they and their claims will not become casualties of unsafe haste toward flawed but "final" judgments borne primarily of convenience for a favored few.

e. The Court Should Not Require a Bond Pending the Appeal

Bankruptcy Rule 8007 refers twice to a bond pending appeal. Subsection (a), which addresses initial motions to the bankruptcy court, states that the items of relief a movant must seek includes "the approval of a bond or other security provided to

obtain a stay of judgment.” Subsection (c), however, which addresses motions in a higher court, states: “The district court, BAP, or court of appeals *may* condition relief on filing a bond or other security with the bankruptcy court” (emphasis added). Use of the word “may” indicates that a bond is not mandatory; the same is true when the motion is made in the bankruptcy court. *In re Sindesmos Hellinikes-Kinotitos of Chicago*, 607 B.R. 898, 913 (N.D. Ill. 2019) (under Bankruptcy Rule 8007, “bonds on stays pending bankruptcy appeals are discretionary” and “are not mandatory”).

Even if a bond were mandatory, or the Court deemed that Petitioners should provide a bond, the amount of the bond is also subject to the court’s discretion, and can be in a small or *de minimis* amount. Given the strong likelihood of success on the merits and the balancing of the other factors relevant to a stay discussed above (particularly the deprivation of meaningful due process throughout the proceeding), Petitioners respectfully ask that the Court dispense with a bond requirement in this case or, alternatively, that the Court set a small or *de minimis* amount for a bond.

IV. THE REFERENCE SHOULD BE WITHDRAWN.

a. Withdrawal of the Reference is Mandatory Under 28 U.S.C. § 157(d)

Under 28 U.S.C. § 1334(b), district courts have original but *not exclusive* jurisdiction of “all civil proceedings arising under title 11, or arising in or related to cases under title 11.” *See* 28 U.S.C. § 1334(b). Each district court may, however, “provide that any or all cases under title 11 and any or all proceedings arising under

title 11 or arising in or related to a case under title 11 shall be referred to the bankruptcy judges for the district.” *See* 28 U.S.C. § 157(a). Further, pursuant to Rule 5011(c) of Bankruptcy Rules, under which district judges may stay proceedings pending disposition of a motion to withdraw the reference “on such terms and conditions as the judge deems proper.”

However, under 28 U.S.C. § 157(d), the reference must be withdrawn “if the court determines that resolution of the proceeding requires consideration of both title 11 and other laws of the United States regulating organizations or activities affecting interstate commerce.” In either case, the District Court hears the motion for withdrawal of the reference. *See* Fed. R. Bankr. P. 5011(a) (“A motion for withdrawal of a case or proceeding shall be heard by a district judge.”); *see also* Fed R. Bankr. P. 5011, advisory committee’s note (“The withdrawal decision is committed exclusively to the district court.”); Local Bankruptcy Rule 5011-1 (motion for withdrawal of the reference is first presented to the bankruptcy court for report and recommendation).

The majority of courts find withdrawal of the reference mandatory when a claim or defense entails “material and substantial consideration” of non-Bankruptcy Code federal law. *Rodriguez v. Countrywide Home Loans, Inc.*, 421 B.R. 341, 348 (S.D. Tex. 2009) (collecting cases). To find that a claim “involves ‘substantial and material consideration’ of non-bankruptcy federal law, the court must find the claim

will involve an interpretation of the federal law rather than the mere application of well-settled law.” *Id.* (citing *In re Vicars Ins. Agency, Inc.*, 96 F.3d 949, 953-54 (7th Cir. 1996)).

Petitioners submit that (i) withdrawal of the reference is *mandatory* under 28 U.S.C. § 157(d) because the proceedings will involve substantial and material consideration of non-bankruptcy federal law (including law relating to due process and intellectual property) and (ii) in the alternative, the District Court should withdraw the reference under the discretionary standard of 28 U.S.C. § 157 because it is indisputably best suited to apply that non-bankruptcy law to the painstakingly litigated facts and related issues and to decide those issues as expeditiously and economically as possible.

With respect to the due process considerations raised, the denial of Petitioners’ opportunity to present witnesses, seek discovery, conduct depositions, and otherwise build an evidentiary record constitutes a violation of several key procedural rights under both state and federal law. In addition to the Bankruptcy Court’s limitation of Petitioners’ cross-examination and refusal to hear from Petitioners’ witnesses at the Sale Hearing, as described herein, the Bankruptcy Court has denied Petitioners any form of discovery whatsoever.

On June 16, 2024, Akerman LLP filed a Notice of Appearance as counsel for VSI and promptly filed an Objection to the Motion for Turnover [ECF No. 672 in

the Bankruptcy Court Proceedings] (the “**Objection to Turnover**”) and a Motion to Reconsider the order granting the 9019 Agreement [ECF No. 686 in the Bankruptcy Court Proceedings] (the “**Motion to Reconsider**”).

On July 26, 2024, VSI filed and served a Notice of Deposition Duces Tecum on the Trustee concerning the issues raised in the Objection to Turnover and Motion to Reconsider (the “**Original Discovery Requests**”). Among other things, the Original Discovery Requests sought information regarding exhibits to the Trustee’s Motion for Turnover that were clearly altered and representations that were demonstrably false and misleading. Rather than account for the altered exhibit documents and misleading statements in his Motion for Turnover, the Trustee moved to quash the Original Discovery Requests, sought entry of a protective order, and moved to withdraw the offensive Motion for Turnover without prejudice [see ECF No. 724 in the Bankruptcy Court Proceedings].

On September 30, 2024, the Bankruptcy Court entered the *Order Granting Motion to Withdraw Turnover Action* [ECF No. 776 in the Bankruptcy Court Proceedings]. The same day, the Bankruptcy Court entered the *Order Granting Motion to Quash* [ECF No. 777 in the Bankruptcy Court Proceedings]. More recently, at the hearing on November 14, 2024, the Bankruptcy Court entered an order [ECF No. 805 in the Bankruptcy Court Proceedings] denying the reconsideration motion and granting the motion to quash remaining discovery,

including discovery relating to the sale process. Effectively, taken together, these orders have completely denied Petitioners any form of discovery, including with respect to the sale process.

At the federal level, these violations implicate the Due Process Clause of the Fifth and Fourteenth Amendments to the U.S. Constitution, which guarantee the right to a fair hearing and an opportunity to be heard. Specifically, the failure to allow discovery or to present witnesses contravenes Federal Rule of Civil Procedure 26, which guarantees parties the right to obtain discovery regarding any non-privileged matter relevant to the subject matter of the action. Additionally, Federal Rule of Civil Procedure 30 and Rule 32 protect a party's right to take depositions as a means of preserving testimony and building an evidentiary record. The deprivation of these rights also violates the right to a fair trial under the Sixth Amendment, as it denies a party the opportunity to present their case fully. Consequently, the deprivation of Petitioners' due process, as described herein, clearly violate non governing fair procedural practice and due process.

Further, with respect to issues relating to intellectual property, case law supports withdrawal of the reference. *See, e.g., Eli Global, LLC v. Univ. Directories, LLC*, 532 B.R. 249, 252-53 (M.D.N.C. 2015) ("The resolution of Defendant Debtors' trademark infringement claim will require significant consideration of non-Title 11 federal law."); *In re McCrory Corp.*, 160 B.R. 502, 505-07 (S.D.N.Y. 1993)

(finding both mandatory and discretionary withdrawal appropriate because “it would be economically and administratively prudent for a district judge, experienced in trademark law, rather than a bankruptcy judge to handle these matters”; transferring the proceedings to another district court).

b. In the Alternative, the District Court Should Withdraw the Reference Under the Discretionary Standard of Section 157

In the event the District Court declines to order withdrawal of the reference under the mandatory provision in 28 U.S.C. § 157(d), Petitioners request the District Court order withdrawal under the discretionary provision.

CONCLUSION

For the foregoing reasons, this Court should grant the relief requested herein, and request the court permit the expanded word count in light of the unique circumstances at bar.

Dated: December 9, 2024 Respectfully submitted,

/s/ Donald N. David

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CERTIFICATE OF COMPLIANCE

This brief complies with the typeface requirements of Federal Rule of Appellate Procedure 32(a)(5) and the typestyle requirements of Federal Rule of Appellate Procedure 32(a)(6) because it has been prepared in a proportionally spaced typeface using Microsoft Office Word in Times New Roman 14-point font.

Dated: December 9, 2024 Respectfully submitted,

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CERTIFICATE OF SERVICE

Pursuant to Federal Rule of Appellate Procedure 21(a)(2), I hereby certify that on December 9, 2024, I dispatched a copy of the foregoing Petition by Federal Express to be served on the Bankruptcy Court judge at the address below and served a copy of the same on the below counsel of record via electronic mail:

Chief Judge Ashely M. Chan
United States Bankruptcy Court Judge
for the Eastern District of Pennsylvania
Robert N.C. Nix Sr. Federal Courthouse
900 Market Street, Suite 204
Philadelphia, PA 19107
(215) 408-2830

Dated: December 9, 2024

Respectfully submitted,

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EXHIBIT A

**UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

In re:

Stream TV Networks, Inc.,¹

Debtor.

Chapter 11

Bky. No. 23-10763 (MDC)

In re:

Technovative Media, Inc.,

Debtor.

Chapter 11

Bky. No. 23-10764 (MDC)

(Jointly Administered)

**STIPULATED ORDER RESTATING AND ENFORCING THE WORLDWIDE
AUTOMATIC STAY**

Upon consideration of the *Emergency Motion for Entry of an Order Enforcing the Automatic Stay and for Sanctions for Willful Stay Violation* (D.I. 49) and *Additional Supplement to Debtors' Emergency Motion for Entry of an Order: (1) Enforcing the Automatic Stay; (2) Directing the Turnover of Property of Debtors' Estate; and (3) Imposing Sanctions for Willful Stay Violations* (D.I. 458) and the *Supplement* filed November 8, 2023, filed by Stream TV Networks, Inc. ("Stream") and Technovative Media, Inc. ("Technovative"), the above-captioned debtors and debtors-in-possession (collectively, "Debtors"); this Court having jurisdiction with respect to Stream to consider the relief requested herein pursuant to 28 U.S.C. §§ 157 and 1334 and the

¹ The Debtors, together with the last four digits of the Debtors' federal tax identification numbers, are Stream TV Networks, Inc. (...4092) and Technovative Media, Inc. (...5015). The location of the Debtors' service address is: 2009 Chestnut Street, 3rd Floor, Philadelphia, PA 19103.

Amended Standing Order of Reference of the United States District Court for the Eastern District of Pennsylvania, dated November 8, 1990; and this Court being able to issue a final order

consistent with Article III of the United States Constitution; and venue of the Stream chapter 11 case and venue of the Stream chapter 11 case in this district being proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this matter being a core proceeding pursuant to 28 U.S.C. § 157(b); and by agreement of the parties which obviated the need for a hearing; and after due deliberation and sufficient cause appearing therefore;

IT IS HEREBY ORDERED THAT:

Pursuant to Section 362, 365, 525, and 541 of the Bankruptcy Code, and subject to the exceptions to the automatic stay contained in the Bankruptcy Code section (including section 362(b)) and the right of any party in interest to seek relief from the automatic stay in accordance with Bankruptcy Code section 362(d), pursuant to Section 362 of the Bankruptcy Code:

(a) The filing of a petition under the Bankruptcy Code on the petition date, March 15, 2023, operated as a stay, applicable to all entities,² on the following:

- (1) the commencement or continuation, including the issuance or employment of process, of a judicial, administrative, or other action or proceeding against the Debtors that was or could have been commenced before the commencement of these Chapter 11 cases, or to recover a claim against the Debtors that arose before the commencement of these Chapter 11 cases;

² “Entity” is defined in the Bankruptcy Code to include a person, estate, trust, governmental unit, and United States Trustee. Bankruptcy Code section 101(15). “Person,” in turn, is defined in the Bankruptcy Code to include an individual, partnership, and corporation. Bankruptcy Code section 101(41).

(2) the enforcement, against the Debtors or against property of the Debtors' estates,³ of a judgment obtained before the commencement of these Chapter 11 cases;

(3) any act to obtain possession of property of the Debtors' estates or of property from the Debtors' estates or to exercise control over property of the Debtors' estates;

(4) any act to create, perfect, or enforce any lien against property of the Debtors' estates;

(5) any act to create, perfect, or enforce against property of the Debtors any lien to the extent that such lien secures a claim that arose before the commencement of these Chapter 11 cases;

(6) any act to collect, assess, or recover a claim against the Debtors that arose before the commencement of these Chapter 11 cases;

(7) the setoff of any debt owing to the Debtors that arose before the commencement of these Chapter 11 cases against any claim against the Debtors; and

(8) the commencement or continuation of a proceeding before the United States Tax Court concerning a tax liability of a Debtor that is a corporation for a taxable period the bankruptcy court may determine.

(b) The commencement of a bankruptcy case creates an estate. Except as provided in Bankruptcy Code section 541(b) and (c)(2), such estate is comprised of all legal or equitable interests of the debtor in property as of the commencement of the bankruptcy case, wherever located and by whomever held.

(c) Nothing in this Order is intended to, or shall, alter the provisions or modify

³ As used herein, "estate" has the meaning set forth in Bankruptcy Code section 541.

the protections of the Bankruptcy Code, including Bankruptcy Code section 362, nor shall anything in this Order extend the stay to non-debtor property or property that is not property of the Debtors' estates, or determine whether any property is or is not property of the Debtors' estates. Nothing herein shall constitute a determination regarding any pending motions or proceedings (including motions for relief from, or seeking to enforce, the automatic stay) or grant of any injunction or injunctive relief requested or currently pending before the Court, nor shall anything herein constitute a determination whether or not a stay violation has or has not occurred.

(d) Entry of this Order shall not affect the exceptions to the automatic stay contained in section 362 (including section 362(b)) of the Bankruptcy Code or the right of any party in interest to seek relief from the automatic stay in accordance with section 362(d) of the Bankruptcy Code or the right of any party in interest to assert any rights under 362(e) of the Bankruptcy Code. This Order is intended to be declarative of and coterminous with, and shall neither abridge, enlarge nor modify, the rights and obligations of any party under sections 362 (including 362(e)), 365, 525, and 541 of the Bankruptcy Code or any other provision of the Bankruptcy Code. Nothing here constitutes a waiver by any party interest of any rights or defenses under any such sections.

(e) This Order does not constitute an anti-suit injunction of any pending action brought under the laws of any foreign jurisdiction or any future action directed by such a court or brought before such a court; the parties' rights with respect to such matters are fully reserved, including as to the subject of matters and proceedings currently pending before this Court.

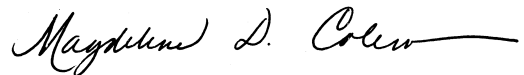
(f) In accordance with the Bankruptcy Code, the Bankruptcy Rules, and applicable law, upon request of a party in interest, and after notice and a hearing, this Court may grant relief from the restraints imposed herein in the event that is necessary, appropriate, and

warranted to terminate, annul, modify, or condition the injunctive relief herein. To the extent the stay has been terminated with respect to a party in interest in accordance with the Bankruptcy Code, the Bankruptcy Rules, and applicable law, nothing herein shall affect that termination.

(g) Nothing herein shall constitute a determination that this Court has jurisdiction over any party.

(h) The Debtors are authorized and empowered, but not directed, to serve, and may use reasonable methods of providing notice of this Order, such as, and including but not limited to, publication, certified and non-certified mail service.

Dated: December 14th, 2023



MAGDELINE D. COLEMAN
United States Bankruptcy Judge

EXHIBIT B

UNITED STATES BANKRUPTCY COURT

FOR THE DISTRICT OF PENNSYLVANIA

IN RE: :
: Case No. 23-10763-amc
:
STREAM TV NETWORKS, INC. CH: 11 :
AND NETWORKS, INC. AND : Philadelphia, Pennsylvania
TECHNOVATIVE MEDIA, INC. : December 4, 2024
: 12:53 p.m.
: :
: :

BEFORE THE HONORABLE ASHELY M. CHAN
UNITED STATES BANKRUPTCY JUDGE

APPEARANCES:

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Also Appearing:

Rediah Braham

Proceedings recorded by electronic sound recording;
transcript produced by TheRecordXchange.

INDEX

<u>Direct</u>	<u>Cross</u>	<u>Redirect</u>	<u>Recross</u>
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WITNESSES:

William Homony

(By Mr. Thompson)

24

(By Mr. Michaels)

52

J. Scott Victor

(By Mr. Swick)

61

(By Mr. Vagnoni)

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1 I'm a creditor from Stream TV.

2 THE COURT: Okay.

3 MR. BRAHAM: They owe me a lot of money.

4 THE COURT: Okay.

5 MR. BRAHAM: I'm a very poor guy. I cannot afford to
6 get --

7 THE COURT: Oh.

8 MR. BRAHAM: -- a lawyer or anybody.

9 THE COURT: Okay.

10 MR. BRAHAM: But right now, Mathu is offering us 90
11 cents to a dollar. I am very humbly requesting to kindly give
12 the company back to Mathu and let him pay everybody so we can
13 survive.

14 THE COURT: Okay.

15 MR. BRAHAM: I just wanted to say that.

16 THE COURT: No problem.

17 MR. BRAHAM: Thank you.

18 THE COURT: Thanks for letting us know.

19 MR. BRAHAM: Thank you.

20 THE COURT: Okay. All right. So I thought perhaps
21 you would -- did you want to say something? Pam is giving me a
22 look.

23 Yeah, go ahead. What is your thought?

24 THE CLERK: There might be people on the phone.

25 THE COURT: Oh, I forgot. I am sorry. Yeah, people

1 on the phone.

2 Would you please put your appearance on?

3 MS. EBECK: Good afternoon, Your Honor. Keri Ebeck
4 on behalf of Leia Inc. I also have my co-counsel Michael
5 Watters on the phone. If any -- we are basically here to
6 listen, but if anything comes up, Mr. Watters will be handling.

7 THE COURT: All right. Thanks, Ms. Ebeck.

8 Anyone else on the phone?

9 Good. Okay. That was easy.

10 All right. Mr. George, I thought perhaps you could
11 do a proffer. Would you want to do a proffer?

12 MR. GEORGE: I will, Your Honor. DO you want to --

13 THE COURT: Unless you guys --

14 All right. Well, you do the proffering, and we will
15 see what they say.

16 MR. GEORGE: Okay.

17 THE COURT: Okay.

18 MR. GEORGE: Your Honor, I will deal with the other
19 exhibits and things after I am done with the proffer.

20 We have two witnesses today, Mr. Homony who is the
21 Chapter 11 Trustee, and Mr. Victor. They have both filed
22 declarations in this case which we have marked in our Exhibit
23 Book as 1 and 2. We have asked that those be moved into the
24 record.

25 If called to the stand, Mr. Homony would testify

1 consistent with his declaration;

2 That he was retained as a Chapter 11 Trustee in this
3 case after the management was removed pursuant to a motion to
4 appoint a Chapter 11 Trustee;

5 That he retained SSG Capital advisors to conduct the
6 sale process for the assets;

7 That he has experience as a trustee in this vicinage;

8 That he had robust and good-faith negotiations with
9 Hawke and SLS that resulted in the Hawe settlement;

10 That he approved putting the Debtor's assets up for
11 sale;

12 He approved the stalking horse bid and designated the
13 stalking horse bidder as the successful or winning bidder,
14 there having been no parties expressing any interest in the
15 purchase of the assets, even following the subsequent and
16 additional teaser information that Your Honor directed at the
17 hearing on the bidding protections;

18 That his decision to sell was grounded in business
19 judgment based on the fact that when he took over the case,
20 there was no money in the case. The Estates were
21 administratively insolvent. The Estates have been in a
22 protracted fight with the secured creditors for a number of
23 years. There had been three previous bankruptcies, two of
24 which were dismissed on the basis of bad faith;

25 That the Bankruptcy Court provided a very limited

1 extension of time within which the Trustee could find a
2 purchaser for the property, or for the assets;

3 That he applied to the Bankruptcy Court for an
4 extension of the automatic stay, and was given until July 15th
5 to effectuate the transfer or the settlement, with a July 15th
6 scheduled hearing date in the Delaware 225 action;

7 The Trustee made a decision that selling the assets
8 pursuant to the sharing and settlement agreement with Hawk was
9 in the best interest of the creditors;

10 That at the time, there was a lawsuit that gave the
11 secured creditors relief to go back to Delaware to redo the
12 Board of the Debtor's;

13 That there were no business activities, no workers,
14 no factory, no raw materials, no finished goods, no WIP, a
15 bonding machine that was palleted and located in China, and no
16 accounts receivable, as well as \$3 million in purported
17 administrative expenses in favor of the Lewis Brisbois firm.

18 Accordingly, the Trustee, based on those factors,
19 made a decision to sell the assets of the property.

20 The Trustee did meet with and tried to work with Mr.
21 Rajan and VSI to entertain legitimate proposals from VSI to buy
22 or restructure the operations of the Debtor. Neither VSI or
23 Mr. Rajan ever demonstrated a viable proposal that was
24 supported by a commitment of a financial nature that would
25 allow the Trustee to make a decision to make an arrangement

1 with Mr. Rajan or VSI.

2 That he requested VSI fund a DIP in order to fund
3 litigation in the case, which VSI failed to do, and the Trustee
4 eventually settled with Hawk.

5 And even after the Hawk settlement, the Trustee
6 continued to discuss potential acquisitions with the VSI
7 parties, so much so that he held off on filing the procedures
8 motion for about ten days while he continued to communicate
9 with the Hawk parties, or I mean the VSI parties, but within
10 that time, there was no proposal that was made;

11 That the Trustee authorized the sale motion and
12 procedures motions, that he reviewed the results of SSG's
13 efforts and believes that a robust and full marketing of the
14 assets have occurred.

15 He has reviewed the results of the sale process, and
16 having received no bids, has concluded in the exercise of
17 business judgment, that the stalking horse bid in the highest,
18 best, and only bid for the assets of the Estate. And that was
19 all Mr. that Homony would testify.

20 THE COURT: Okay. All right. Did you gentlemen want
21 to respond to the proffer that was made?

22 MR. THOMPSON: Well, Your Honor, on behalf of VSI, I
23 would object to the timing and sufficiency of the testimony
24 that has been put in by proffer. But we will, of course, get
25 an opportunity to cross-examine both witnesses.

1 I think there is a preliminary matter though, Your
2 Honor, that I think we need to take up based upon these
3 proffers and the declarations that were filed yesterday for
4 something that was filed this morning, which was an amended
5 order, form of order, for this sale.

6 Your Honor, I guess, let me take the podium, because
7 it is going to be a minute.

8 THE COURT: Okay.

9 MR. THOMPSON: Your Honor, I have been doing this a
10 while. And to say that this is one of the more exceptional
11 last-minute orders I have seen would be putting it graciously.

12 This sale order demonstrably changes the terms of the
13 agreement, and ultimately, the sale, that this Trustee purports
14 to want to do with this stalking horse. It bears very little
15 resemblance to what this Court approved in the 9019 sale or
16 9019 settlement agreement providing for a sale.

17 It includes unconstitutional releases, injunctions,
18 gatekeeper provisions, a whole ration of relief. And it is all
19 being granted, I guess, at the 11th hour by the Trustee and
20 asking this Court to bless it, because this stalking horse
21 bidder will not go forward on the agreement that they struck in
22 May and ultimately had approved in June. They have been
23 telling us for months and months as we tried to propose
24 alternatives and ask this Court to reconsider that 9019
25 settlement agreement.

1 It is not -- there is nothing we can do about it. It
2 is too -- it is binding. So if it is binding, it is also
3 binding upon the Hawk parties. This stalking horse bidder came
4 to this process saying that they would abide by the agreement
5 that was struck in June and that this Court approved. They are
6 not doing that.

7 This Trustee is now saying that because they might
8 back out and they will not agree without the Court blessing
9 this additional relief. It is quite a red line. Unless they
10 do that, excuse me --

11 THE COURT: Let's listen to Mr. George.

12 MR. THOMPSON: Unless they do that, this sale isn't
13 going through, at least that is what we read. And I don't
14 think it is very complicated, Your Honor.

15 THE COURT: Let's just drill down to the specifics.
16 The one provision of the revised sale order that I had a
17 question about was that all along, it was my understanding that
18 Hawk was taking the position that if I agreed to the sale, that
19 whatever litigation you may face by VSI and Rembrandt, you were
20 going to face.

21 But when I read the paragraphs 13, 14, and 15 of the
22 sale order, it sort of purports now to making me a gatekeeper
23 to any kind of litigation. That was my understanding of that,
24 of those provisions. And the concern I had about those
25 provisions are that I don't care to be that gatekeeper. If I

1 do authorize the sale, then whatever litigation they may want
2 to bring, they are going to bring.

3 MR. GEORGE: Well, Your Honor, first of all, let me
4 just say two things. I think Mr. Thompson is a little over his
5 skis what he says that --

6 THE COURT: All right. Well, let's just assume
7 everyone is emotional. I know, I mean, you guys are all going
8 to count, you know --

9 MR. GEORGE: But that is just -- yeah. But to say --

10 THE COURT: -- paint the other person as, you know.

11 MR. GEORGE: Understood. But to say that there is
12 any indication that Hawk isn't going to close, it is just wrong
13 and improper.

14 THE COURT: Well, but what they are saying is that --

15 MR. GEORGE: It's a form of --

16 THE COURT: -- what they are saying is that it is --
17 let's do this. Let's not respond, and preferably, let's not
18 state things emotively. All right? So let's just take away
19 what he was saying. He was saying that there are provisions in
20 there that are either unconstitutional, that there is a lot of
21 changes. And I would have to agree with him, Mr. George, there
22 are a lot of changes. We had to review these changes today.

23 MR. GEORGE: Understood, Judge.

24 THE COURT: But specifically, the point that I just
25 raised is something that is near and dear to their heart, that

1 they have been hopping mad since the beginning of time about
2 what you guys want to do here with regard to their licensing
3 rights. And they do seem to want to sue someone.

4 So I am not going to be the gatekeeper of that
5 litigation. I am not going to decide if something is
6 meritorious. So at this point, I am not really interested in
7 making those revisions to the sale or that you suggested.

8 So you could respond to that point.

9 MR. GEORGE: No, that is fair enough, Your Honor.
10 Because I think the Trustee's intention, and I think we have
11 said all along is that we are selling interests in these
12 downstream entities. And if the parties on that side of the
13 table feel like they have claims, nothing we are doing is going
14 to change that because we don't own those downstream assets.

15 THE COURT: Okay. So reconcile what these new
16 paragraphs say though.

17 MR. GEORGE: Well --

18 THE COURT: These new paragraphs now say that I'm
19 supposed to be a gatekeeper.

20 MR. GEORGE: -- sure. I can work on this with the
21 counsel to Hawk, and maybe we can address that.

22 THE COURT: Okay.

23 MR. COREN: Thank you, Your Honor. Yes. We just
24 confirmed, their -- the litigation and the claims of SeeCubic
25 or of Rembrandt that are going on in the District of Delaware

1 right now, and any claim that intellectual property litigation
2 is going to move forward against the Debtors an assumed
3 liability under the asset purchase agreement, as is made clear
4 in the order. That is not subject to the gatekeeper provision.
5 That is going to go forward and that litigation is going to be
6 able to move forward. And if that needs to be made more clear
7 here, we absolutely will.

8 THE COURT: Okay. I just want to clarify that VSI
9 and Rembrandt are going to have the right to pursue all of
10 their arguments with regards to the infringements. Okay?

11 MR. MICHAELS: That is absolutely, correct, Your
12 Honor.

13 THE COURT: And right now, I don't feel like that
14 language is clear.

15 MR. GEORGE: Your Honor?

16 THE COURT: Yeah?

17 MR. MICHAELS: With respect --

18 MR. GEORGE: Before Mr. Michaels starts --

19 THE COURT: Uh-huh.

20 MR. GEORGE: -- is he a witness or a lawyer? Because
21 the last time he sat at that table and he testified. I know
22 you said don't be emotive.

23 MR. MICHAELS: I am a lawyer.

24 MR. GEORGE: I am doing everything I could do. Mr.
25 Coren left a dent in my knee from kicking me because I sat

1 while Mr. Michaels testified and advocated at the same time.
2 So I would like that clarification. Why is he here, is he a
3 witness? If he is, he can't make presentations.

4 THE COURT: I thought he was a lawyer.

5 Are you a lawyer, sir?

6 MR. MICHAELS: Yeah, I am serving as an attorney for
7 Rembrandt 3D.

8 THE COURT: Okay. He is serving as an attorney, so
9 he is making argument.

10 MR. GEORGE: Fair enough.

11 THE COURT: Okay.

12 MR. MICHAELS: Your Honor, I would like to read, not
13 -- no -- you said, let's get to what the facts are rather than
14 emotive response. Well, the language they added to Section EE
15 in the proposed order states the Buyer asserts that it will --

16 THE COURT: Yeah, I read that.

17 MR. MICHAELS: -- not consummate the transaction.

18 THE COURT: Okay. So they are going to take
19 responsibility for assumed liabilities, at the assumed
20 liabilities are your litigation. We looked at the defined term
21 of assumed liabilities, and that is part of it.

22 Let's just all agree to the concept. I am telling
23 you right now that I am not approving any sale order unless
24 they preserve their rights to go after Hawk in connect

25 MR. MICHAELS: Understood, Judge.

1 THE COURT: Okay. Hawk, would you like to say
2 something?

3 MR. CAPONI: Yes, Your Honor. Just to be clear, Hawk
4 is not the purchaser or the stalking horse. Hawk is the
5 collateral agent SeeCubic, so --

6 THE COURT: Okay. When I say Hawk --

7 MR. CAPONI: -- if we are going after somebody --

8 THE COURT: -- it's like the umbrella.

9 MR. CAPONI: -- like, let's try to drop Hawk if we
10 don't --

11 THE COURT: Sure.

12 -- we can be a little clearer about that, that is
13 all.

14 THE COURT: Yeah, whoever the Buyer is, they are --

15 MR. CAPONI: We are going to buy it.

16 THE COURT: -- going to face all of this litigation.

17 MR. CAPONI: That is correct, Judge.

18 THE COURT: Okay.

19 MR. THOMPSON: So Your Honor, to be clear, and we can
20 submit testimony and we are here with witness of our own, the
21 action that initiates the right to sue, the transfer, is the
22 closing. Right? Stream has a license from Rembrandt and it is
23 perfectly valid. They have not committed any IP infringement.
24 I asked them to clarify, is Scott Victor running around
25 providing offering for sale assets of the company covered by

1 our license. Right? We believe they are.

2 Rembrandt's position is actually, we don't have the
3 right to sue Stream and its executives because they have a
4 valid license to our technology. What they don't have the right
5 to do is to transfer our trade secrets to another party --

6 THE COURT: I understand.

7 MR. THOMPSON: -- and effectively, what they are
8 doing.

9 THE COURT: I understand.

10 MR. MICHAELS: And so what I am saying is the day of
11 the closing, SCBV, Stream, all of its officers, are violating
12 1830 -- U.S.C. 1832, right? Not the day before, not the
13 minute. That is the transaction that does it. And those that
14 are receiving it are likewise violating that statute. And SCBV
15 is implicated, Stream, all of the executives involved.

16 And this is purporting, the reason I started reading
17 this clause is I think it is the most important thing that they
18 have submitted. The Buyer is unwilling to proceed. There was
19 an asset purchase agreement that was submitted for everybody
20 to, you know, to get approved, and there was a 9019 settlement.
21 And they are not willing to proceed, that is what they have
22 said. Unless we get these unique protections that you are just
23 providing five minutes before I got in my car to drive to this
24 hearing today, they are not going to proceed.

25 So they have told us everything we need to know.

1 This sale isn't happening. I would move, at the beginning of
2 this, to say this sale is no longer before this Court, the
3 Buyer won't go.

4 THE COURT: I just clarified that if the sale does go
5 through, you will be able to sue the Buyer.

6 MR. MICHAELS: With respect, Your Honor. That is an
7 issue I certainly care deeply about. The issue I am bringing
8 before, the nuance of what I am stating today is that there was
9 a motion to approve the (audio interference) purchase and the
10 sale. And the Buyer has told the Trustee they are unwilling to
11 proceed unless the deal that they sought approval for changes,
12 right? They are calling off the sale.

13 My request is that the motion be denied and they come
14 back again when they have worked out what their asset purchase
15 agreement is going to be and we have a time to actually respond
16 to the asset purchase agreement being asked for approval for
17 this Court.

18 THE COURT: I am confused by how you are
19 characterizing this. They did make a lot of changes. But the
20 assumed liabilities definition includes the litigation you guys
21 have, so the Buyer is agreeing to still be on the hook for
22 that. So what changes are they asking for that makes this sale
23 not able to go forward?

24 MR. MICHAELS: They have -- I mean, I am looking
25 right at Section EE, and it says, specifically, unless the

1 asset purchase agreement specifically provides, and this Court
2 specifically orders, that the Buyer, its properties, its
3 successors and assigned and their respective property and the
4 assets will not have any liability whatsoever with respect to
5 require to satisfy in a manner whether in law and equity,
6 whether by payment, setoff or otherwise, directly or
7 indirectly, any claim or lien or any successor or transfer
8 liability, excuse me, ability for either of the Debtors, other
9 than the assumed liabilities.

10 THE COURT: Other than the assumed liabilities. So
11 they are in the assumed liabilities.

12 MR. MICHAELS: I understand Rembrandt is in the
13 assumed liabilities. That, and I do appreciate that your
14 statements with regard to Rembrandt's claims. But Your Honor --

15 THE COURT: The Debtor can't get sued anymore, right?

16 MR. MICHAELS: -- what I am raising --

17 THE COURT: Uh-huh.

18 MR. MICHAELS: -- is that this is not the asset
19 purchase agreement that they moved for approval. They have
20 radically changed it.

21 THE COURT: In what way have they radically changed
22 it?

23 MR. MICHAELS: Well, I am looking at a redline
24 agreement which I have had five minutes to read. So I would
25 ask for a continuance for the opportunity to answer that

1 question fulsome.

2 THE COURT: Summarize for me, give me, like, the
3 biggest ticket item --

4 MR. MICHAELS: The point is, Your Honor, five minutes
5 was insufficient time for me to review all of the changes.

6 THE COURT: You said the purchase agreement has
7 changed. I agree that there were revisions, but I had time to
8 look at the blackline. I had concerns, and I just raised my
9 concerns with them to clarify that your litigation will go
10 forward. But other than that, can you even point to something
11 that is --

12 MR. MICHAELS: Your Honor, I can, right?

13 THE COURT: Yeah?

14 MR. MICHAELS: Your Honor pointed to the gatekeeper
15 provision.

16 THE COURT: Right.

17 MR. MICHAELS: I will point to the injunction.

18 THE COURT: And I am striking that. There is -- you
19 are going to be able to go after the Buyer.

20 MR. MICHAELS: And the injunction, the injunctive
21 relief that they have got in -- that they are suggesting in 14?

22 THE COURT: The injunctive relief --

23 MR. MICHAELS: -- right? They are looking for
24 injunctive relief for these stalking horse bidders as protected
25 parties under this revised agreement, which basically --

1 THE COURT: All right. Let me just make this clear.

2 MR. MICHAELS: Okay.

3 THE COURT: You guys, Rembrandt and VSI, you can go

4 crazy with whatever litigation you want against the Buyer.

5 Period. End of story.

6 I will make sure that if I do enter the sale order

7 you have got those rights. Okay?

8 MR. MICHAELS: Your Honor, the problem is, they are,

9 the stalking horse bidder, through the Trustee, is now making

10 this as Mr. Michaels clearly pointed out in their own language,

11 the contingency for their participation in this sale.

12 THE COURT: But they have asked for things in the

13 blackline proposed sale order that I am not going to give them.

14 It seemed to me that were asking me to be a gatekeeper for your

15 litigation against them. I am not going to do that.

16 So what other changes are there to the proposed sale

17 order that you think is so dramatic?

18 MR. MICHAELS: Well, I think it is exceptional that

19 they are actually suggesting that they are not prepared unless

20 they get it. Which means, if Your Honor is not going to give

21 it, they are not prepared to close.

22 THE COURT: Okay. Well, I just told them that I am

23 not going to give it to them, and they said okay.

24 MR. MICHAELS: So I think what we need is a

25 representation from the stalking horse bidder today and now

1 that they will close, notwithstanding the fact that Your Honor
2 will not provide that relief.

3 THE COURT: Go ahead, Ms. Brumme.

4 MS. BRUMME: Good afternoon, Your Honor.

5 Marley Brumme from Skadden Arps for the Buyer, the
6 stalking horse bidder, SeeCubic Inc.

7 I am not sure where Counsel has gotten the idea that
8 we are backing out of this as a purchase agreement or the sale
9 in any way, shape, or form. And I am certainly not sure where
10 they have gotten the idea that there has been discussions of
11 that that they haven't been a part of between our client and
12 the Trustee.

13 But to be clear, yes, my client is prepared to move
14 forward with the sale, fully understanding that the Counsel on
15 this side of the table over here is going to probably, as you
16 said, sue us every which way to Sunday --

17 THE COURT: Uh-huh.

18 MS. BRUMME: -- on violations --

19 THE COURT: Yep.

20 MS. BRUMME: -- so.

21 THE COURT: Thank you. All right. Now let's do
22 this. So we have two witnesses for today. Who do you -- do
23 you need to cross-examine both of them?

24 MR. THOMPSON: Yes. And --

25 THE COURT: All right. And let's just be absolutely

1 crystal clear about what kind of cross-examination questions I
2 am going to permit today. I am not going to permit any cross-
3 examination questions about issues that I have already
4 resolved. I don't want to hear them. We have already heard
5 all of them. So the extent that you are questioning the 9019
6 order and the fact that Hawk has been approved as, you know,
7 the person under that 9019 order. And that they have --
8 whether they have acted in good faith in this case or not, I
9 don't want to hear any questions. I have already heard all of
10 them.

11 I just want to hear questions about whatever they
12 have said in the affidavits that they just recently filed that
13 have to do with my sale today. Those are the only questions
14 that I feel like entertaining today. Okay?

15 All right. So do you want to bring up the Trustee
16 first?

17 MR. GEORGE: Mr. Homony.

18 THE COURT: Yeah. Yep, that is fine.

19 You can go ahead and start.

20 (Trustee sworn)

21 THE CLERK: Can you please state your name and spell
22 your last name for the record?

23 MR. HOMONY: William A. Homony, H-O-M-O-N-Y.

24 THE CLERK: Okay. Thank you.

25 MR. HOMONY: Sure. 1730 Maple Avenue, Hatfield,

1 Pennsylvania, 19440.

2 (Audio interference)

3 MR. GEORGE: -- 1 through 6.

4 MR. THOMPSON: Thank you. John Thompson on behalf of
5 VSI.

6 DIRECT EXAMINATION

7 BY MR. THOMPSON:

8 Q Good afternoon, Mr. Homony.

9 A Good afternoon.

10 Q Mr. Homony, how long have you been a Chapter 11 Trustee?

11 A Well, this is my first engagement as a Chapter 11 Trustee,
12 and it began in January of 2024.

13 Q Okay. Mr. Homony, do you remember a meeting or a set of
14 communications that you had with the VSI constituents'
15 principals?

16 A I've had many, so.

17 Q Do you remember having them shortly after your appointment
18 in January?

19 A Sure.

20 Q Did you ask those principals for assistance in
21 understanding the Stream TV case?

22 A Yes.

23 Q Did you exchange email with them?

24 A Sure, yes.

25 Q Did you give them directions?

1 A Did I give them direction?

2 Q Did you give them directions?

3 A I think I asked for documents in support for positions
4 that they wanted me to advocate.

5 Q Okay. Did you ever do an inventory of the assets of
6 Stream TV?

7 A Well, that was one of the issues in the case that is not
8 typical in a Chapter 11 Trustee case. There were no operations
9 and it was unclear at the time, and remains unclear, exactly
10 which entities of Mr. Rajan's have possession of tangible
11 assets, records, et cetera. So I don't believe Stream TV has
12 certainly any significant tangible assets. And if they do, I
13 have not been aware -- made aware of them or know their
14 location or who is in control of them.

15 Q That was a long example, Mr. Homony. So I am going to
16 break it down. I asked you the question did you do an
17 inventory of Stream's assets; yes or no?

18 A I would say generally, yes.

19 Q You did?

20 A Yes.

21 Q How did you do that inventory?

22 A Through reading through various materials, the case
23 filings, the various adversary matters, the history of the
24 case, the filings in the Chapter 11 case up through my
25 appointment, and other records I obtained from either Stream or

1 VSI personnel.

2 Q Did you talk to other parties?

3 A Yes.

4 Q Who were those parties?

5 A Those parties were, again, Mr. Rajan, Nicole Maneen, the
6 employees of SeeCubic, B.V. in the Netherlands. I certainly
7 spoke to Mr. Stastney over time, his counsel, Hawk's counsel,
8 all of the relevant parties and interests that you would think
9 a Chapter 11 Trustee would talk to in this situation.

10 Q And did you accumulate an asset list from all of those
11 communications in that investigation?

12 A Again, I think the assets that I identified through my
13 investigation are included in the APA, both those that are
14 being purchased as well as the excluded assets.

15 Q All of the assets are identified in the APA?

16 A I believe, generally, the assets of Stream are identified
17 in the APA, yes.

18 Q And those assets are assets that are being transferred
19 under this sale, correct?

20 A Stream is identifying a, certainly, a set of assets to the
21 Buyer, yes.

22 Q If you were to look at the APA, which is on the docket --

23 A Uh-huh.

24 Q -- and certainly, we can have you take a look at it, but
25 it describes all of the assets that Stream TV holds or may

1 hold, correct?

2 A Yes, except for the specifically identified excluded
3 assets, yes.

4 Q Okay. That includes, among other things, physical
5 property, intellectual property, yes?

6 A I would suggest that they are -- I don't believe I am
7 transferring any tangible property of Stream, and I don't
8 believe I am transferring any intellectual property that is
9 owned by Stream.

10 Q You don't believe that you are actually transferring any
11 intellectual property owned by Stream?

12 A No.

13 Q You are doing this as an as is where is sale, right?

14 A That's correct.

15 Q What does that mean, Mr. Homony?

16 A That means, buyer beware. The Buyer gets the assets in
17 any condition, in any form, no reps or warranties. They can't
18 come back. There is no recourse to the Estate.

19 Q Wherever they are, right?

20 A Correct.

21 Q Does the location, possession, or circumstance, right,
22 change who owns that property?

23 A Can you repeat that? I am sorry.

24 Q Does the location, you said as is and where is, right?

25 A Uh-huh.

1 Q Does the location or the condition change who owns the
2 property?

3 A No.

4 Q It is the Debtor's, it is part of the Debtor's Estate,
5 right?

6 A Well, certain assets are a part of the Debtor's Estate.

7 Q So for instance, the bonding machine that is in Asia is a
8 Debtor asset, right?

9 A Well, as I have testified before, there is certainly a
10 cloud over the title in the way in which it was -- the way it
11 was explained to me as being addressed when a Receiver was
12 appointed over Technovative before this bankruptcy case was
13 initiated. I do believe it is listed as an asset of Stream on
14 Stream's Schedules. So the extent it is owned by the Debtor,
15 and I misspoke previously, this is the only tangible piece of
16 equipment that the Debtor's Estate may own. However, it may be
17 titled already in the Netherlands under the SCBV. Either way,
18 in this proposed sale, it is being conveyed to the Buyer.

19 Q But the only document that you have ever seen is a receipt
20 that tells you that Stream TV is the owner of that; is that
21 correct?

22 MR. GEORGE: Objection to form, Your Honor.

23 MR. THOMPSON: Excuse me, I will rephrase.

24 BY MR. THOMPSON:

25 Q Is the owner of the bonding machine located in Asia is

1 Stream TV?

2 A I am not sure I have ever seen a bill of sale or anything
3 like that. I think it was manufactured over time, many, many
4 years ago. And my understanding is it has been in China for
5 over a decade. So I don't know that I have seen a specific
6 document that you just referenced.

7 Q You suggested that somebody had told you that there might
8 be cloud over that title to the bonding machine; is that right?

9 A That is correct.

10 Q Who told you that?

11 A I think -- I think I've read it many things, and I believe
12 that SCBV personnel have referenced the fact that, I believe,
13 the Receiver may have put it in SCB's name in order to pay for
14 the storage, et cetera, in China for a period of time.

15 Q You said that the SCBV Receiver would have put it in
16 SCBV's name?

17 A He may have titled it in their name for it.

18 Q So how would the SCBV Receiver have retitled a piece of
19 property that the Stream Estate owned?

20 A I don't know how he did it.

21 Q You wouldn't know how he did it. Have you seen any
22 document that establishes any right, title, or interests over
23 the bonding machine in SCBV, aside from what people have told
24 you?

25 A Not that comes to mind.

1 Q Nothing, huh? Okay. But nevertheless, your asset purchase
2 agreement and the documents that you have filed in favor of
3 this sale suggest that there is some potential that the bidder
4 or the Buyer would not actually receive title of that; is that
5 right?

6 A No, not at all. I think it is very clear that the Buyer
7 will get title, regardless of how it is currently titled. They
8 are either going to get it if Stream owns it or if SCBV owns
9 it. They are going to get it through the equity interest of
10 SCBV. So they will have control over that asset regardless of
11 who currently has title.

12 Q That is important. So they do have control if they buy
13 these assets?

14 A Control over what?

15 Q Over SCBV.

16 A Well, ultimately I am transferring what I believe, the
17 defined term, transferred interests, in the APA, which
18 constitutes three subsidiaries of Technovative, which is one of
19 the Debtor entities. And so they will be the economic interest
20 holder in Ultra-d Ventures, which is a non-Debtor foreign
21 subsidiary. That entity ultimately, I believe, indirectly owns
22 SCBV. So I would suggest that ultimately they will have
23 control should they choose to exercise it over SCBV.

24 Q SCBV ultimately is owned by the Topco's Technovative and
25 Stream TV that are Debtors in this case, right?

1 MR. GEORGE: Objection, Your Honor.

2 THE COURT: Okay. What was your objection, Mr.
3 George?

4 MR. GEORGE: I think he said that it was owned by
5 Technovative and Stream TV. Oh, I am sorry.

6 MR. THOMPSON: Let me rephrase.

7 THE WITNESS: Yes, sir.

8 BY MR. THOMPSON:

9 Q Does the ownership interest of SCBV, wherever it is in the
10 stack, ultimately run up through Technovative at the first
11 level and Stream TV at the second?

12 A Well, I wouldn't say the first level. There are many
13 foreign subsidiary levels before you get to the U.S. Debtor
14 Technovative. So as I just described, I believe it is
15 Technovative, which is a U.S. Debtor. It is Ultra-d Ventures,
16 which is a non-Debtor foreign subsidiary who then owns another
17 foreign subsidiary, Ultra D cooperative who then owns SCBV.
18 It's a chain.

19 Q Yes, I understand, and I thought my question was
20 accounting for it. Perhaps it wasn't, but thank you for the
21 clarification, Mr. Homony. The question really is who controls
22 all of those subsidiaries, including SCBV?

23 A Ultimately, I believe the buyer will be able to exercise
24 control of them.

25 Q The buyer. Who does right now?

1 A Who does right now?

2 Q Yes.

3 A Exercise control over SCBV?

4 Q All of the subsidiaries below Technovative.

5 A Well, I have -- the Debtor's Estates have an ownership
6 interest in Ultra-d Ventures.

7 Q They control everything below Technovative, do they not?

8 A I wouldn't -- I wouldn't, I mean, the facts and
9 circumstances change depending on what a particular entity
10 would want to do.

11 Q Well, does the sale process, Mr. Homony, who has control?
12 Because we just talked about the Hawk parties, if they are the
13 successful Buyers, they would have control for purposes of the
14 bonding machine we talked about. Does that change the process
15 from what exists right now?

16 A Well, obviously --

17 Q In a case where you sit as the Trustee to these Debtors?

18 A Well, I guess, maybe I am speculating. I would suggest
19 that the Buyer is going to exercise control over all of those
20 entities post-closing.

21 Q And they would do so because?

22 A Because of the legal ownership interest in the corporate
23 structure I just described.

24 Q Right. And right now, who has control of the legal
25 ownership interests?

1 A Well, ultimately, Technovative has ownership interest, an
2 economic ownership interest in, as I described.

3 Q And who has control over Technovative --

4 A I do.

5 Q -- and the Stream Debtors?

6 A Okay.

7 Q Thank you. That is where I was really going, Mr. Homony.

8 A Okay. Uh-huh.

9 Q Right. You have control, right?

10 A I have an ownership interest in --

11 Q You can control, right?

12 A Well, that is a -- to me, that is a legal conclusion, that
13 is a different determination.

14 Q Okay.

15 A I don't think I have control over SCBV.

16 Q You don't think you have control?

17 A I do not have it right now, no.

18 Q Did you ever review any of the court proceedings or orders
19 out of the Netherlands Court?

20 A I don't know specifically. I do know that there was a
21 dispute as to who could exercise, I guess, control as the
22 director of SCBV. And I believe the Court in Netherlands, over
23 Stream's objection, appointed Mr. Stastney as the director of
24 See -- SCBV, I believe. That is a recollection from months
25 ago.

1 Q So is Mr. Stastney in control?

2 MR. GEORGE: Your Honor, I object. Control is a
3 label --

4 THE COURT: I am really confused about all of this.

5 MR. GEORGE: -- matters. I am sorry.

6 THE COURT: He has got whatever he has got. And
7 there is a corporate structure. It sounds like he owns certain
8 equity interests. And term, if you are asking about, like,
9 daily operations, it sounds like he is not in control of those.

10 What is the point of all of this questioning?

11 MR. THOMPSON: Your Honor, I am getting there, right?
12 I am asking for --

13 THE COURT: What is your point?

14 MR. THOMPSON: My point is that there is control of
15 certain assets that ultimately are, that run to the benefit of
16 at a minimum, or are controlled by the Stream TV and
17 Technovative Debtors.

18 THE COURT: And?

19 MR. THOMPSON: And that matters for purposes of this
20 sale for reasons --

21 THE COURT: Why? Right. So it is what it is. I
22 mean, they own the equity interests. They have the rights that
23 they have. You are not the Buyer, so you are not asking about
24 clarification, so what is the objection? What is the concern
25 here?

1 MR. THOMPSON: Well, I am getting there, Your Honor.
2 I am trying to show that Mr. Homony has control over all of the
3 subsidiaries, and could take control so that he could actually
4 realize the assets and the value of those assets. And control,
5 in this particular instance, the transfer of those assets.

6 THE COURT: Yes, Mr. George?

7 MR. GEORGE: Your Honor, I think this is all
8 irrelevant. I am going to move to strike the testimony related
9 to this issue of control.

10 THE COURT: I happen to agree. I think it is
11 irrelevant. I mean, you are trying to ask him questions that
12 would suggest that the Trustee has certain powers that you
13 would like to see him exercise, that he doesn't appear to
14 choose to exercise. He wants to sell the assets that he has.
15 He wants to sell the shares of the subsidiaries as part of the
16 sale, so.

17 MR. THOMPSON: Fine, Your Honor. I will move on and
18 we will talk about the assets that he has.

19 THE COURT: Okay.

20 MR. THOMPSON: Your Honor, may I speak to this
21 objection?

22 THE COURT: Excuse me?

23 MR. THOMPSON: May I speak to this objection?

24 THE COURT: Okay.

25 MR. THOMPSON: The relevance, Your Honor, is that the

1 Trustee and the stalking horse bidder have routinely and
2 consistently made the point that this is an asset sale only of
3 stock in corporations. And we just came across testimony that
4 the Trustee provided that there is bonding equipment that the
5 Buyer is getting by either directly the asset being owned by
6 Stream or by taking control of the entity SeeCubic B.V., which
7 owns the bonding equipment. And either way, it affects a
8 transfer of ownership of the bonding equipment. This concept
9 is going to be incredibly relevant throughout all of
10 Rembrandt's claims.

11 THE COURT: Sure. Well they wouldn't --

12 MR. THOMPSON: We would --

13 THE COURT: -- the bonding equipment for a while.
14 The bonding equipment is going to the Buyer, that is no
15 surprise. He just clarified that is really the only hard
16 tangible property that is going to the Buyer that Stream owns,
17 correct, sir?

18 THE WITNESS: Yes, correct.

19 THE COURT: Yeah. So yeah, okay.

20 MR. GEORGE: And Your Honor, I think that further,
21 that this is just an effort to try to make it look like the
22 Trustee didn't do his job. It is really an attack on him as a
23 person --

24 THE COURT: Yeah.

25 MR. GEORGE: -- and the job that he did here.

1 THE COURT: And I don't see its relevance to the line
2 of questioning that you are pursuing with the Trustee right now
3 about, you know, who is the corporate structure or who is
4 controlling the daily operations. I don't think any of that is
5 relevant.

6 MR. THOMPSON: Your Honor, I have heard it and I will
7 move on.

8 THE COURT: Thank you.

9 MR. THOMPSON: I would only suggest that they will
10 become readily apparent why.

11 THE COURT: Okay.

12 MR. THOMPSON: All right. So --

13 MR. GEORGE: But Your Honor, if they become relevant,
14 it will be on another day, it won't be today because none of
15 this (simultaneous speech).

16 THE COURT: All right, Mr. George. Mr. George, I
17 understand. Let's go.

18 BY MR. THOMPSON:

19 Q Mr. Homony, you are familiar with the Stream operations
20 prior to the bankruptcy, correct?

21 A Well, I wouldn't call them operations. I am certainly
22 familiar with -- I don't believe Stream has really operated
23 since the omnibus agreement in 2020.

24 Q So it did operate?

25 A Prior to the omnibus date, they had operations --

1 Q They had operations.

2 A -- as far as I know. Yes.

3 Q Did they have operations in California?

4 A I'm not sure that I paid much attention to the location of
5 the operations, et cetera. It really was not a factor in my
6 evaluation of where we are today in 2024, and how to best move
7 these cases forward and provide a recovery for assets, so.

8 Q Do they have assets in California?

9 A When?

10 Q Anytime.

11 A Well, I --

12 THE COURT: Well, who cares? All that we care about
13 are assets now. All right? Are you asking questions --

14 MR. THOMPSON: Well --

15 THE COURT: -- about assets now in California?

16 MR. THOMPSON: -- Your Honor, this is relevant.

17 THE COURT: Okay. So what is your point?

18 MR. THOMPSON: I promise you it is relevant.

19 THE COURT: Just tell me your point, sir.

20 MR. THOMPSON: My point is that there were assets in
21 California.

22 THE COURT: Uh-huh.

23 MR. THOMPSON: There were servers in California.

24 THE COURT: Uh-huh.

25 BY MR. THOMPSON:

1 Q They were in -- they were Stream's servers and they had
2 Stream's production code on them. Do you know about that, Mr.
3 Homony?

4 A When?

5 Q They had the -- this, they were on these servers in 2020.
6 They were as recently, I believe, as 2021.

7 MR. GEORGE: Your Honor, is that testimony? Because
8 that doesn't sound like a question.

9 MR. THOMPSON: Well, again, I can't --

10 THE COURT: Well, he was asking about what I asked
11 him.

12 MR. THOMPSON: -- be asked to do it both ways, right?

13 THE COURT: Okay. But so why do we care about the
14 servers in California at some prior date that is no longer --

15 MR. THOMPSON: Because it has property of the Stream
16 Estate on it, on those servers. And there is source code,
17 there is production code created by Stream TV, Stream TV's
18 employees, Stream TV's engineers, and that was done with
19 Rembrandt's IT and trade secrets.

20 THE COURT: Okay. So -- yeah. Yeah. So this sounds
21 like a legal argument. It doesn't sounds like --

22 MR. THOMPSON: It -- I -- Your Honor, I am simply
23 trying to establish what this trustee, who is just represented
24 to this Court, there's only item of -- of -- one asset, a hard
25 asset. There's more than one asset, and it --

1 THE COURT: Okay. Well --

2 MR. THOMPSON: -- and --

3 THE COURT: -- he just said that there's only one.
4 If you disagree, then we'll have to agree to disagree.

5 MR. THOMPSON: I think I need to establish whether
6 this trustee -- I'll use Mr. George's words -- did his job to
7 investigate and marshal the assets, and I'm trying to probe
8 that. I'm trying to test that proposition. He suggested he
9 did.

10 THE COURT: Well, he's -- you're talking about some
11 servers from California. I don't really understand how it's
12 relevant.

13 Yes, Mr. George?

14 MR. GEORGE: Your Honor, in addition, if there -- as
15 Mr. Homony testified -- if there are assets, wherever they are,
16 they're going to belong to the purchaser, and -- and that's the
17 facts of the matter.

18 There hasn't been a single fact established that
19 there are servers in California -- that there's anything on
20 them that's relevant to the hearing on approval of the sale
21 motion. That's what we're here for today.

22 MR. THOMPSON: Your Honor, I'm trying to find out
23 where -- what assets Mr. Homony knows about, and he's only told
24 us one.

25 THE COURT: Yes.

1 MR. THOMPSON: And if that's -- if his answer is --

2 THE COURT: That's the one --

3 MR. THOMPSON: -- I didn't investigate --

4 THE COURT: -- that's the one.

5 BY MR. THOMPSON:

6 Q Did you do any investigation of any other assets, hard
7 assets or intellectual property assets, for the -- for the
8 estate.

9 MR. GEORGE: Objection to form, Judge. It's
10 compounded because he lists the two together. He already
11 testified there wasn't any, like, intellectual --

12 THE COURT: I think you've already asked him, and he
13 already said the only tangible property that he's investigated
14 is the bonding equipment. That's it.

15 MR. THOMPSON: Okay. So that's the only
16 investigation.

17 BY MR. THOMPSON:

18 Q Mr. Homony, did you have a meeting with Mr. Rajan, Ms.
19 Menine and their former counsel from Lewis Brisbois, who is no
20 longer counsel at the time, in -- on March 7th, 2024?

21 MR. GEORGE: Objection, Your Honor, to the extent
22 that there's facts that are stated in that question that aren't
23 in evidence. He's saying that Lewis Brisbois was not VSI's
24 attorney. We disagree with that wholly.

25 THE COURT: Okay. Do you have any recollection of

1 this March meeting, sir?

2 THE WITNESS: I do. I believe it's the -- yes. I
3 do.

4 BY MR. THOMPSON:

5 Q During that meeting, did you make representations to the
6 VSI team that they were the subject of a civil conspiracy?

7 A No.

8 Q You didn't say that?

9 A Absolutely not.

10 Q Okay. Were you shown a list of assets that needed to be
11 returned to Stream TV?

12 A I believe they identified certain assets they -- they
13 believe were not returned in connection with the Delaware
14 Chancery Court matter.

15 Q They included displays; did they not?

16 THE COURT: If you don't remember, it's okay.

17 THE WITNESS: I don't recall.

18 BY MR. THOMPSON:

19 Q Phones?

20 A I don't recall specific assets that they may have
21 identified.

22 Q You don't remember any of the assets on that list?

23 A I remember they provided a list. I just don't remember
24 today the specificity.

25 Q Were you -- were you aware that there was an obligation to

1 return assets to the Stream TV estate from Hawk and -- and
2 SeeCubic. SeeCubic, Inc. -- excuse me -- to be more precise.
3 A I try -- I'm trying to recall exactly the legal position
4 of the -- of -- of the Delaware Chancery Court matter when I
5 was appointed as a trustee here. I know there was an order
6 that required, I believe, the return of assets that SeeCubic
7 had under the prior omnibus that was ultimately overturned. So
8 again, I know -- I know VSI's argument was there were assets
9 that were never returned to Stream that should have been.

10 Q What did you do with that list of assets that they had
11 given you?

12 A Well, I think I took it under advisement. I mean, at the
13 time, you have to appreciate this case and -- and the -- the
14 fighting and the unknowns at the time that I was appointed and
15 trying to figure out where the most valuable assets are.
16 Right? And so there can be assets, some of which have the
17 minimus value, some have no value, some are a burden, and so, I
18 think, I identified the most valuable assets and have proposed
19 to sell them. And so could there be other assets out there
20 that are not specifically identified? Of course. And that --
21 that is under the broader description in the APA that provides
22 for a sale of both known and unknown assets to the extent they
23 fall in those categories described in the APA.

24 Q You don't quite remember what was on that list, but could
25 it have had software?

1 MR. GEORGE: Objection, Your Honor. He asked him to
2 speculate.

3 THE COURT: Yeah. He's already answered the
4 question.

5 MR. THOMPSON: Okay.

6 BY MR. THOMPSON:

7 Q So I think what you said in response to my question about
8 what you did was to find the -- was to identify the most
9 valuable assets. Do you not think that software code for a
10 technology company was a value asset -- valuable asset?

11 THE COURT: Okay. He --

12 MR. GEORGE: Your Honor, objection.

13 THE COURT: -- already answered the question.

14 MR. GEORGE: It hasn't been established that --

15 MR. THOMPSON: I -- I didn't ask that question, and

16 I --

17 THE COURT: You asked him --

18 MR. THOMPSON: Asked him to --

19 THE COURT: -- if he identified the most valuable
20 assets and if there's something there that, you know, that
21 he -- that wasn't on that, then he didn't conclude that it was
22 very valuable.

23 I have to admit, sir, I really feel like what you're
24 doing here is you're trying to make legal argument, and I
25 simply don't want to hear it. What are the factual questions

1 that you have --

2 MR. THOMPSON: I'm trying to establish --

3 THE COURT: -- related to this --

4 MR. THOMPSON: -- Your Honor, what assets this
5 trustee knew about and did not know about.

6 MR. GEORGE: And -- and why is that relevant, Judge,
7 if all of the assets are being transferred? Wherever they are
8 in an --

9 THE COURT: I agree with Mr. George.

10 MR. THOMPSON: It matters. It matters because the
11 condition of those assets, if they are encumbered by licenses,
12 that --

13 THE COURT: Yes.

14 MR. THOMPSON: -- the trustee does not --

15 THE COURT: -- and you're going to sue them. I get
16 the point, yes.

17 MR. THOMPSON: Your Honor, I think it's more than
18 that, but --

19 THE COURT: Yeah. So what is it? You want to sue
20 them. I get it.

21 MR. THOMPSON: It's -- it's not --

22 THE COURT: But what's --

23 MR. THOMPSON: -- it's -- it's not about that.

24 It's --

25 THE COURT: It's a sale issue, just tell me --

1 MR. THOMPSON: Because Your Honor, it cannot be sold
2 free and clear that way. They do not have 363(f) rights, and
3 they certainly don't have it to -- for this stalking horse.

4 THE COURT: And that's your legal argument, and I
5 will take that under advisement.

6 MR. THOMPSON: Your Honor, I understand. I am trying
7 to adduce the facts that demonstrate that. That's all.

8 THE COURT: No. Okay. It's not facts. It's legal
9 argument. I completely disagree with you, sir. Okay. So --

10 MR. THOMPSON: I -- you know, I -- okay. I -- I've
11 heard -- I've heard the Court, and I will try to move on.

12 THE COURT: Okay.

13 MR. THOMPSON: All right.

14 BY MR. THOMPSON:

15 Q Mr. Homony, during that meeting, were you presented with
16 purchase orders that were --

17 THE COURT: Why are we talking about this? Why are
18 we talking about what was discussed at the meeting?

19 MR. THOMPSON: Your Honor, that would have been an
20 asset of the estate.

21 THE COURT: Okay. So all of the assets that they own
22 are being transferred to the buyer, so I don't understand how
23 it's relevant to talk about what assets were discussed at that
24 meeting or were not. Explain that to me. Why is that
25 relevant?

1 MR. THOMPSON: Because this trustee had an obligation
2 to maximize the value for all state creditors.

3 THE COURT: Right. And he said he identified the
4 most valuable assets. And --

5 MR. THOMPSON: Okay. Your Honor, if I have -- may
6 have a moment, maybe we can --

7 THE COURT: Yeah.

8 MR. THOMPSON: -- cut this short, and let Mister --

9 THE COURT: Great. Thanks.

10 MR. THOMPSON: Your Honor, in the -- in the interest
11 of trying to be briefer. We will -- I'm -- I will pass to
12 Mr. Michaels. Thank you.

13 MR. MICHAELS: Just -- our exhibits, we have binders
14 and -- and copies that we provided opposing counsel. I can
15 give them to the Court. Some of these are not premarked
16 because we had to print them this morning, and I just had them
17 in a hurry because they dealt with cross for the -- for the
18 decks, but I'll -- I'll come hand them up if that's okay, if I
19 can approach?

20 THE COURT: Okay.

21 MR. MICHAELS: And there's -- there's a couple here
22 that I think we'll just hand up when we bring them up --

23 THE COURT: Okay.

24 MR. MICHAELS: -- if that's okay. They're not in
25 this.

1 MR. GEORGE: Your Honor, I just want to point out
2 that Mr. Michaels is listed as a witness in the witness list,
3 so I -- who's telling the truth here? Is he a lawyer? Is he a
4 witness? Is he both? I mean, you know, this game that's being
5 played here --

6 THE COURT: Well, who's being called as a witness? I
7 thought we're --

8 MR. GEORGE: In the -- in the witness list in the
9 documents that we just received.

10 THE COURT: We have him and we have Scott Victor.
11 Those are the witnesses for today.

12 MR. MICHAELS: Your Honor, we brought witnesses
13 today. That's what you --

14 THE COURT: I don't -- okay. So why do I need to
15 hear from any witnesses from your side?

16 MR. MICHAELS: What's that?

17 THE COURT: Who am I hearing from? Give me an
18 example.

19 MR. MICHAELS: Stephen Blumenthal.

20 THE COURT: And why do I need to hear from him?

21 MR. MICHAELS: Your Honor, we were told at the June
22 5th hearing by you that -- that the timeframe for discussing
23 our assets that are being -- attempted to be included in the
24 transfer and sale, that this was the hearing that we should
25 prepare for and bring our arguments.

1 THE COURT: All right. But I'm just talking about
2 legal argument. I don't need to hear from witnesses. You've
3 briefed all of your legal arguments. That's what I care about.

4 Thanks.

5 UNIDENTIFIED SPEAKER: Okay.

6 MR. GEORGE: And Your Honor, Mr. Blumenthal is not on
7 the list of witnesses. Mr. Michaels is, the lawyer, but
8 Mr. Blumenthal --

9 MR. MICHAELS: All right. I mean --

10 MR. GEORGE: -- which one is he here today?

11 THE COURT: All right. All right.

12 MR. MICHAELS: Your Honor, I'm not going to be able
13 to scream over Mr. George. Can I --

14 MR. GEORGE: I'm not screaming. I'm just making a
15 point.

16 THE COURT: Yeah.

17 MR. MICHAELS: Okay. What he's referring to is a set
18 of documents handed to him by VSI. That's not our witness
19 list. We -- we're calling one witness.

20 THE COURT: Yeah. Okay.

21 MR. MICHAELS: Stephen Blumenthal.

22 THE COURT: I don't really -- so who's the witness
23 that you want to call, sir?

24 MR. MICHAELS: Stephen Blumenthal.

25 THE COURT: Yeah. And what is he going to testify

1 to?

2 MR. MICHAELS: He's going to testify to the assets
3 that we have in this estate and how easy it is to determine
4 that our assets are being transferred and where they're found.

5 THE COURT: Okay. And I don't need to hear from that
6 witness today, and I'm not going to hear from him today. I'm
7 happy to hear all the arguments that you've listed in your
8 briefs, but I'm not taking testimony from that gentleman. I
9 don't need that for part of the sale process.

10 The assets are what they are. They've listed them.
11 I mean, let's face it. The assets are mostly equity, right?
12 There's one piece of hard asset. The rest of this is -- deal
13 is equity.

14 MR. MICHAELS: Your Honor, with respect, we followed
15 your instructions in understanding that this was going to be
16 our day to bring our evidence, and the rug's being pulled out
17 from under us.

18 I -- I -- I stand dumbfounded that we couldn't rely
19 on this Court's statements that this was going to be our --

20 MR. GEORGE: Well, Your Honor --

21 THE COURT: But the statements I made in the prior
22 hearing specifically were that you should put in your brief to
23 the objection to the sale every legal argument you have about
24 the licenses. This is like your main argument, right? So you
25 did that. You gave the briefing, and we're looking at the

1 briefing, and we've seen their responses, and we're going to
2 take everything under advisement.

3 So it's a legal issue. I don't understand how this
4 is a --

5 MR. MICHAELS: Let me ask just a procedural question.
6 Are you saying that our declaration submission by Stephen
7 Blumenthal is being taken into evidence?

8 THE COURT: I will take that into evidence.

9 MR. MICHAELS: All right. Can I proceed with --

10 THE COURT: Yes.

11 MR. MICHAELS: -- cross? Okay.

12 MR. MICHAELS: This is -- again, I -- we received
13 their declarations at past 5:00 p.m. I'd already arrived --

14 THE COURT: Okay. It can't be a surprise, right?

15 MR. MICHAELS: What's that?

16 THE COURT: We all -- it can't be a surprise. We
17 know the sale process, right? We understand what happened.

18 MR. MICHAELS: Your Honor, I'm only apologizing for
19 not marking the exhibits.

20 THE COURT: Okay. That's fine, not a problem.

21 MR. MICHAELS: Right.

22 MR. GEORGE: What are you marking it?

23 MR. MICHAELS: This is --

24 MR. GEORGE: No. What are you calling it? The
25 number.

1 MR. MICHAELS: What?

2 MR. GEORGE: Just call it Rem.

3 MR. MICHAELS: Rembrandt Exhibit 1.

4 THE COURT: Okay. We'll do --

5 CROSS-EXAMINATION

6 BY MR. MICHAELS:

7 Q Mr. Homony, do you recognize the document we've put before
8 you?

9 A Yes. It looks like the teaser sent out by my investment
10 banker, SSG.

11 Q Okay. Can you jump to the assets overview?

12 A Okay.

13 Q In that section, does it describe that the assets include
14 Ultra-D technology?

15 A Yes.

16 Q Does it provide a list of the features and diverse
17 applications of the technology?

18 A There's a -- a heading that describes the unique features
19 in diverse applications of technology, yes.

20 Q And are the things listed under that heading, would you
21 agree that those are features and diverse applications of the
22 technology?

23 MR. GEORGE: Objection to form, Your Honor. To the
24 extent he knows.

25 THE COURT: Okay.

1 MR. MICHAELS: I -- I am --

2 THE COURT: Well, it says what it says, so what is
3 the question?

4 BY MR. MICHAELS:

5 Q Do you agree with what it says?

6 A I -- I don't know the technology at -- at the, kind of,
7 level that would --

8 THE COURT: Wasn't this prepared by Scott Victor?
9 Right -- was this? Yeah. Okay. So --

10 MR. GEORGE: So he's going to be a witness.

11 THE COURT: Yeah.

12 MR. MICHAELS: I mean, he can say, I don't know. I
13 had no -- no hand in preparing this.

14 THE COURT: Okay. Fine.

15 MR. MICHAELS: That -- that's the answer.

16 THE COURT: So you didn't --

17 THE WITNESS: No. No. I -- I did not prepare it.

18 THE COURT: Yeah. Okay.

19 THE WITNESS: I reviewed it before it went out.

20 BY MR. MICHAELS:

21 Q Do you recall getting lists of questions from Rembrandt
22 regarding the status of certain software?

23 A I -- I know we've engaged with Rembrandt numerous times
24 since my appointment. I know Rembrandt has provided certainly
25 lots of things with respect to their position in -- in terms of

1 their alleged intellectual property. We certainly met with
2 Rembrandt. We even put Rembrandt in direct contact with SEBV's
3 engineering team.

4 Q Uh-huh.

5 A I was a party to that meeting in which there was a lot of
6 back and forth, questions about the source code the technology,
7 how it's housed, et cetera.

8 Q So you brought up the very next thing I was going to, so I
9 appreciate that. In that meeting, do you recall Rembrandt
10 questioning the Eindhoven (phonetic) team whether they were
11 using a modern version controlled software management system?

12 A I don't recall that specifically, no.

13 Q So when you set up that meeting, did you feel that you, in
14 your power as trustee, that you had authority to ask the
15 Eindhoven team to meet with Rembrandt at your direction?

16 A I have authority to task anybody to -- to meet with
17 anybody.

18 Q Okay. So was it within your authority to ask them to
19 provide further information: Number of files, file names,
20 etcetera, for the source code that was on the secure server
21 that you've listed in your asset list?

22 MR. GEORGE: Objection to form, Your Honor. It
23 assumes facts not in evidence. There's no indication that
24 there was source code on any of those servers that Rembrandt
25 has an interest in.

1 MR. MICHAELS: You're -- with respect, the APA lists
2 the -- that as an asset. It's -- the exact words are, Source
3 code on a secure server.

4 THE COURT: Okay.

5 MR. MICHAELS: I mean, if he doesn't know that, then
6 the asset list is inaccurate.

7 THE COURT: Okay. And what --

8 MR. GEORGE: I believe that's --

9 THE COURT: -- my questions are --

10 MR. GEORGE: I'm sorry, Your Honor.

11 THE COURT: I just -- I'm so confused because, I
12 mean, the assets are what they are. Are you trying to make the
13 same point that he was trying to make about, you know, what is
14 the point about the assets? The assets have been listed on the
15 schedule to the assets of purchase agreement, so what is the
16 relevance of your line of questioning, sir?

17 MR. MICHAELS: The -- the relevance is whether he --
18 if there's an asset listed, does he know where is, as is, for
19 that -- for that asset, right?

20 UNIDENTIFIED SPEAKER: Your Honor --

21 MR. GEORGE: Your Honor, I -- I just want to object
22 to this because the only source code and -- and -- and servers
23 are in SeeCubic B.V. a non-debtor. Stream doesn't have any of
24 those assets, and they weren't listed. There was no scheduled
25 source code.

1 MR. THOMPSON: Objection. He's testifying, Your
2 Honor.

3 THE COURT: Okay. Well, I'm going to clarify that
4 the assets that are being sold are on the schedules. They're
5 either on there or they're not, so I don't want to talk about
6 it. It's there or not, right?

7 MR. GEORGE: But what I -- and what I'm objecting to
8 specifically is Mr. Michaels trying to make it appear that
9 we're selling assets in SeeCubic B.V.

10 THE COURT: Right. They're only -- you're only
11 saying they're shares. Yeah. Right.

12 MR. GEORGE: And the assets that were -- excuse me --
13 the assets that were listed as to B.V. were listed at the
14 Court's instruction that we list the downstream assets, so the
15 question was inappropriate. He knows it is, but he asked it
16 anyway.

17 MR. MICHAELS: With respect, I don't believe it's
18 inappropriate. We are asking about an asset listing on their
19 schedule.

20 THE COURT: Okay. But --

21 MR. MICHAELS: And -- and -- and if I may, Your
22 Honor. The -- the asset isn't shares in a corporation that may
23 have control of some software. Stream listed as its asset,
24 Source code on a secure server, not held in some other
25 corporate entity, Source code on a secure server, and I'm

1 asking, what is that? What -- where is it? What is it? And
2 that's -- I think that's a perfectly valid question about the
3 assets that are subject to this asset.

4 MR. GEORGE: If he has a document that reflects that,
5 he should show the witness because I don't believe there's any
6 such doc.

7 UNIDENTIFIED SPEAKER: Do you guys have the APM? Is
8 that in the -- in the folder you have there?

9 MR. MICHAELS: It's on the list of assets on the
10 beginning of the schedule --

11 UNIDENTIFIED SPEAKER: Okay. Well, if we're just --

12 THE COURT: She's trying to understand what you're
13 asking.

14 MR. MICHAELS: I'm asking --

15 THE COURT: I know, just show us the document.

16 MR. MICHAELS: We have -- we have an electronic --

17 UNIDENTIFIED SPEAKER: You don't have an APA in
18 printed form; do you not?

19 MR. MICHAELS: No. Okay.

20 THE COURT: So --

21 MS. RUSSELL: Your Honor?

22 THE COURT: Yes. Who is this speaking?

23 MS. RUSSELL: This -- this is Alyssa Russell from --
24 from Skadden along with -- with Marley. I'm on the phone here
25 representing SeeCubic.

1 I was just -- further the objection here to the
2 relevance as the APA makes clear Rembrandt's IP and any
3 physical assets that contain its IP to the extent it's found
4 valid and existing and enforceable, they're excluded assets.
5 We -- we don't think any of this is relevant here today.

6 MR. MICHAELS: We certainly care about Rembrandt's
7 assets, but I'm asking about their schedule on the APA that is
8 here to be approved in the sale to be approved, and asking,
9 What is the source code? Where is the source code? With
10 respect, they've said that they're --

11 MS. RUSSELL: The -- we appreciate your effort to --
12 to conduct this diligence, but -- but the stalking horse
13 purchaser has conducted their diligence and we are comfortable
14 taking these assets on an as is, where is basis, and, again,
15 don't -- don't believe this line of questioning is relevant.

16 THE COURT: I'm inclined to agree with her.

17 BY MR. MICHAELS:

18 Q The -- how is it that you determined that intellectual
19 property belonging to Rembrandt, Phillips, or any other third
20 party were not on the source code on a secure server --

21 THE COURT: Okay. I'm -- this is the legal argument.
22 You're talking about, you know, the fact that you think that
23 the sale is impermissible because it's infringing upon your
24 rights. I get that. It's a legal argument.

25 I don't want to hear any questions about that. The

1 assets are what they are. The only person who's bid upon them
2 has done their due diligence, and to the extent that you
3 believe that the sale is going to violate your rights, you can
4 bring whatever litigation you want. We simply are going to
5 have to agree to disagree on this matter, sir.

6 I don't want to hear any more questions about the
7 assets. The assets are what they are. They're on the
8 schedules. The buyer has done their due diligence, and you can
9 make whatever legal argument you want to make, but I don't need
10 to hear any questions about it. It's simply not relevant.

11 Okay. So I think we're done with you, sir.

12 Mr. Victor, do you want to come up here?

13 MR. GEORGE: Your Honor, do you want to proffer or
14 just --

15 THE COURT: On Mr. Victor?

16 MR. GEORGE: Yeah.

17 THE COURT: Quickly.

18 MR. GEORGE: Okay.

19 THE COURT: Come on, Mr. Victor. Come on up here.

20 Thanks, sir.

21 THE WITNESS: Would you like --

22 THE COURT: You can leave that.

23 MR. GEORGE: Your Honor, in accordance with this
24 declaration, he would testify that SSG was retained to market
25 the stream assets, as well as the equity interest held by

1 Technovative Media in the following companies: Technology
2 Holdings Delaware LLC, Media Holdings Company LLC, Ultra-D
3 Ventures CV a Kirkcow (phonetic) entity that pers retention
4 approved by this Court, SSG conducted a robust marketing of the
5 assets, contacted over 500 potential purchasers, solicitation
6 including everyone from television networks to OEM
7 manufacturers, to financial purchasers, that SSG and its staff
8 created a data room and in it was sales information populated
9 by documentation for the veteran trustee.

10 The following in a procedures hearing, SSG sent out a
11 second teaser with the comments of Rembrandt and BSI contained
12 and that the additional teaser did not generate any additional
13 interest in the assets being sold. Only one party accessed the
14 data room as of December 2nd, '24; there have been no other
15 bids on the assets, that the stalking horse offer provides
16 substantial benefit to the estate and in his opinion, the
17 stalking horse offer ties to the best offer that could be
18 obtained, under the circumstances, for the asset.

19 THE COURT: Thanks, Mr. George.

20 Tashay, can you swear our witness in?

21 J. SCOTT VICTOR, WITNESS, SWORN

22 THE COURT: Okay. You want to ask Mr. Victor -- oh,
23 sorry.

24 THE WITNESS: Yes, J. Scott Victor, V-I-C-T-O-R.

25 THE CLERK: Thank you.

1 THE WITNESS: 300 Bar Harbor Drive, West Conshohocken
2 in Pennsylvania, 19428.

3 DIRECT EXAMINATION

4 BY MR. SWICK:

5 Q Good afternoon, Mr. Victor. How are you?

6 A Good, how are you?

7 Q Good. I'm Adam Swick with Akerman on behalf of VSI. Talk
8 about your role; how are you retained in this matter?

9 A I was retained by the Chapter 11 Trustee, on behalf of my
10 firm, SSG advisors, to run a sale process for the debtor's
11 assets.

12 Q All right. How did you become familiar with the debtor's
13 assets?

14 A We were first aware of the debtor's assets when we were
15 hired by the secured creditor in the fall of 2022, to run an
16 Article IX process which was stayed by order of the Chancery
17 Court of Delaware.

18 Q I -- and who was the secured creditor that you referred
19 to?

20 A Hawk and SeeCubic.

21 Q Okay. And that's -- SeeCubic is the purchaser for here
22 today, correct?

23 A One of them. Yes.

24 Q Let's -- so when you were engaged, what were your duties
25 when you were engaged?

1 A By the trustee?

2 Q Correct. Yes.

3 A To reengage, understand the -- what was going on since our
4 engagement with the secured creditor terminated in January of
5 2023. We became familiar, we read up on all the litigation
6 that had occurred since our termination. And our job was to
7 put together a sale process for the assets of the debtor,
8 including the equity interest of the subsidiaries, held by
9 Technovative, and to put together a teaser, get information to
10 populate a data room, and to come up with a world-wide buyer
11 list to maximize the value of these assets.

12 Q All right. So how did you come up with your world-wide
13 buyer list?

14 A I had my team do research, as they do on every deal, and
15 come up with a buyer's list of strategic, operational financial
16 buyers that may be interested in this technology.

17 Q All right. We're going to do --

18 MR. SWICK: Did that work, Your Honor?

19 THE COURT: Yeah.

20 MR. SWICK: All right. Let's just label it VSI
21 Exhibit 1, it's Mr. Victor's declaration that was filed last
22 night.

23 Mr. THOMPSON: It's also --

24 MR. SWICK: Huh?

25 Mr. THOMPSON: It's also RT2.

1 MR. SWICK: Oh.

2 Mr. THOMPSON: Scott's declaration.

3 THE COURT: No.

4 MR. THOMPSON: This seat's really low, Your Honor.

5 MR. SWICK: My seat's really low, too, if that's what
6 you're saying.

7 BY MR. SWICK:

8 Q All right. Would you please take a look at paragraph 20?

9 A Paragraph 20, you say?

10 Q Yes.

11 A Yes.

12 Q All right. So it says that you reached out to 550
13 prospective buyers around the world; what does "reached out"
14 mean?

15 A It means that the teaser that we prepared, that I believe
16 you showed Mr. Homony here, which was Rembrandt 1, was sent out
17 to these 550 buyers that we came up with that we reviewed with
18 the trustee and his team as potential buyers. So that teaser,
19 along with an email, was sent out to those 550 and follow-up
20 calls to all of them. That's how we reach out in the sale
21 process.

22 Q Okay. And did -- and no one expressed any interest
23 besides VSI and Jacob -- I forgot his last name, but at
24 Continental?

25 A Continental Energy, yes. So no one signed an NDA other

1 than VSI and Continental advisors, which was an alleged
2 investor into VSI; but we had multiple conversations with
3 multiple potential strategic buyers who ultimately passed
4 without even signing an NDA.

5 Q So how many -- you said multiple, can you give me an
6 approximation of how many?

7 A Dozens.

8 Q Dozens. But no one went the next step for an NDA?

9 A No one.

10 Q Did Rembrandt ever express any interest in purchasing the
11 debtor's assets?

12 A Not to us directly, but I believe maybe to the trustee and
13 trustee's counsel, but no, I never had any direct reach-out by
14 Rembrandt, ever.

15 Q Okay. So even though they reached out to, at least, the
16 trustee or trustee's counsel, did you send them that teaser
17 went you sent it out to the 550 people?

18 A I don't know.

19 Q Did you send the teaser to VSI when you sent it out to
20 those 550 people?

21 A Well, VSI was already under NDA and we gave VSI access to
22 the data room and provided additional diligence to VSI's
23 representative, Bud -- I can't remember his last name at this
24 moment, but he requested several additional pieces of
25 information including the cash burn rate at SeeCubic BV, which

1 we gave him, literally, up until the last minute.

2 Q No, I understand that. But my question was, did you
3 provide VSI with the teaser when you sent it out to the 550
4 parties?

5 A I don't think so.

6 Q Okay.

7 A But I can't be sure.

8 Q So the Continental Advisory firm that we talked about, did
9 you send the teaser to them?

10 A We did send the teaser to them, as well as the NDA, which
11 they signed.

12 Q But did you send the teaser to them when you sent it out
13 to the 550?

14 A They were not included in the 550, no.

15 Q And then we've -- there's been a plan on file now, it has
16 just been for a couple of days, but the plan sponsor is an XD
17 called CanAm Financial in Canada. Have you ever heard of them
18 before?

19 A What's the name?

20 Q Can -- C-A-N-A-M.

21 A No.

22 MR. GEORGE: Your Honor, can we just have an offer of
23 proof of the relevance of what's in that plan?

24 THE COURT: Yeah, I don't -- well, the plan is not at
25 issue for today.

1 MR. GEORGE: Right.

2 MR. SWICK: Well, we have some -- it's -- all I want
3 to prove is there was an entity that has interest in these
4 debtor's assets, that I don't think got the teaser or was
5 contacted by Mr. Victor.

6 THE COURT: Did you -- sounds like you know them,
7 though, because they're part of the plan?

8 MR. SWICK: They're the plan sponsor. Yeah.

9 THE COURT: Did you not give them the teaser?

10 MR. SWICK: I -- well, we have now. Into this
11 process.

12 THE COURT: Okay. Well, are you saying that they're
13 a potential interested bidder on these assets?

14 MR. SWICK: They're not going to -- we don't want a
15 bid, we have a plan on file.

16 THE COURT: Oh, okay. All right.

17 MR. SWICK: Yeah.

18 THE COURT: So but what's the relevance of Mr.
19 Victor's --

20 MR. SWICK: Because CanAm is interested in spending,
21 like, \$300 million on these debtors.

22 THE COURT: How is that relevant to what Mr. Victor
23 was hired to do?

24 MR. SWICK: Well, he was hired to go find people who
25 want to spend money on the assets and he didn't contact them or

1 know who they were --

2 THE COURT: Mr. Victor --

3 MR. SWICK: -- or another part of the bids --

4 THE COURT: -- contacted over 500 people, I think
5 that's pretty impressive.

6 MR. SWICK: No, and not only that, Your Honor --

7 THE COURT: And if you knew of someone that might be
8 a potential interested buyer, I would think you'd forward all
9 that information along to them.

10 If your point is that Mr. Victor didn't send a teaser
11 to this person who is part of your plan, I don't really see how
12 that's relevant if you, you know, he -- he did a good job. He
13 sent it out to 500 people, and he didn't get any response. So
14 any other questions?

15 MR. SWICK: Yeah, I have more questions, Your Honor.

16 THE COURT: Okay.

17 BY MR. SWICK:

18 Q All right. Mr. Victor, let's look at paragraph -- I'm
19 sorry, just give me one second. Go to paragraph 11.

20 A Yes.

21 Q All right. So we're just going to read it out loud, it's
22 a short paragraph, just to save time.

23 "I met with VSI representatives who, after an
24 extensive discussion of SSG's approach to marketing
25 the debtor's assets, were satisfied that I could

1 perform the services of an investment banker fully
2 and without conflicts. VSI withdrew its objections
3 to SSG's retention."

4 Did I read that correctly?

5 A Yes, you did.

6 Q All right. Is that totally correct, Mr. Victor?

7 A It is correct because I spoke with counsel for VSI who's
8 here at the table today, along with his colleagues. They had
9 objected to our retention, claiming that we had a conflict
10 because we were retained in the fall of 2022 to do an Article
11 IX sale for the secured lender; they objected; we had a phone
12 call, probably two; and they withdrew the objection.

13 MR. SWICK: May I approach, Your Honor?

14 THE COURT: Yep. Thank you.

15 BY MR. SWICK:

16 Q So Mr. Victor, this is an email from Mr. Thompson to Mr.
17 Coren, Michael Vagnoni, and Ed George. I want to direct your
18 attention to paragraph 2. Okay? I'm going to read this out
19 loud, too.

20 "Moreover, we believe we, in the trustee, were
21 negotiating good faith regarding VSI's proposed plan
22 of reorganization. And thus, we agree to one,
23 withdraw VSI's objection to SSG's engagement; two,
24 postpone the hearing on our motion to compel and your
25 motion to quash originally set for September 18th to

1 November 7th, simultaneously resetting the trustee's
2 motion to withdraw and VSI's motion for
3 reconsideration.

4 "However, within a few short days of postponing the
5 hearing, the trustee reversed its prior commitments
6 with respect to VSI's plan, rejected VSI's proposed
7 full payment plan, and filed an expedited sale and
8 good procedures motion."

9 Did I read that correctly?

10 MR. GEORGE: Your Honor, I'm going to object. This
11 is a hearsay document; Mr. Victor's not copied on it.

12 THE WITNESS: I'm not copied.

13 THE COURT: Yeah. Well --

14 THE WITNESS: I don't know if I've ever seen this.
15 But okay, you've read it.

16 THE COURT: Okay. So I'm going to sustain that
17 objection. He's not part of this.

18 MR. SWICK: Okay.

19 BY MR. SWICK:

20 Q Were you part of any conversations where the attorneys in
21 this case and you were involved and mentioned and said hey,
22 we're going to withdraw this objection under certain conditions
23 that weren't just based on your qualifications?

24 A No.

25 Q No recollection whatsoever?

1 A None.

2 Q Okay. Let's go back just a little bit and talk about your
3 previous retention involving these parties and these assets,
4 back in -- I think you said it was 2020 for SeeCubic and Hawk?

5 A The fall of 2022.

6 Q Oh, 2022. Okay. How were you approached for that
7 representation?

8 MR. GEORGE: Your Honor, I'm going to object to the
9 relevance of this.

10 THE COURT: Yeah. What's the relevance of this?

11 MR. SWICK: The relevance, Your Honor, is that we
12 have a sale process where no one has expressed any real
13 interest, the assets are going to the entity that held all of
14 the assets, weren't retained by the trustee, and no one could
15 even bid on the assets. And so -- and then the investment
16 banker who did all of the solicitation was previously hired by
17 the Hawk parties and that's who these assets are going to
18 who've always retained them this entire time.

19 So the process -- this is going into legal argument
20 so I know exactly where you're going to go --

21 THE COURT: I know. Uh-huh. That's right.

22 MR. SWICK: -- so I'm going to -- that is, once
23 again, factual predicate for the legal argument, which is where
24 we are.

25 THE COURT: Okay. I'm going to sustain the

1 objection.

2 MR. SWICK: All right.

3 No further questions.

4 THE COURT: All right. Anyone else?

5 MR. VAGNONI: Can we go off of Rembrandt Exhibit 1,
6 the market excel sheet. Do you have that up there?

7 THE WITNESS: I have it.

8 THE COURT: Okay.

9 MR. VAGNONI: All set?

10 THE WITNESS: Yes.

11 CROSS-EXAMINATION

12 BY MR. VAGNONI:

13 Q Okay. So this document, can you describe for me how it
14 was created?

15 A Yes. My team created this one-page teaser which is
16 standard operating procedure to sell a company.

17 Q Okay.

18 A Or to finance a company, or whatever. But a one-page
19 teaser is standard operating procedure in the hundreds and
20 hundreds of sales that I have done.

21 Q Okay. Thank you. The assets overview section, who
22 provided you the information to write that section of the
23 teaser?

24 A My team put it together, speaking with, specifically, the
25 engineering team in the Netherlands.

1 Q Okay.

2 A At SeeCubic BV.

3 Q So this mentions the license with Phillips; do you see
4 that reference?

5 A Yes.

6 Q Did your team read the Phillips licensing agreement?

7 A We had it, yes.

8 Q But in the 550 --

9 A In fact, it's in the data room.

10 Q Right. So in terms of the 550 companies, or entities,
11 that you contacted, did you reach out to the 23 or so licensees
12 in that Phillips agreement that are basically working in the
13 same technology?

14 MR. GEORGE: Your Honor, I have an objection here.
15 He doesn't represent Phillips. Leia, who, I understand is a
16 successor to Phillips is on the telephone. So I don't
17 understand what standing he has to raise questions about the
18 Phillips license. He's not the licensor, doesn't have any
19 interest in it. He may -- his company may be a licensee, but
20 there are many of them out there.

21 THE COURT: Sustained.

22 MR. VAGNONI: Your Honor, I'm not asking about -- I'm
23 asking -- the companies he contacted, there's a list of
24 companies that have licensed the Phillips technology already.
25 They would be the prime companies to reach out to to sell these

1 assets. I'm asking if he reached out to any of those 23.

2 THE COURT: Okay.

3 BY MR. VAGNONI:

4 A I don't know the answer.

5 Q Did you --

6 A As I sit here.

7 Q Did you reach out to Leia?

8 A I don't know.

9 Q Did you reach out to Dimenco? Dimenco.

10 A I don't know.

11 Q How about Magnetic 3D?

12 A Do not know.

13 Q All right. So having listed some of the major players in
14 no glasses 3D TV, you're --

15 MR. GEORGE: Objection, Your Honor. He's testifying.

16 THE COURT: Yeah.

17 MR. GEORGE: He's calling -- we haven't even heard
18 these names until he just said them, now he's testifying --

19 MR. VAGNONI: Well, that's telling.

20 THE COURT: He hasn't -- so he hasn't asked these
21 people. So any other questions for Mr. Victor?

22 MR. VAGNONI: Let me just take a second here and look
23 at my notes.

24 No. I'm all set. Thank you.

25 THE COURT: Okay. All right. No more questions for

1 Mr. Victor then?

2 Okay. You may step down, sir. Thank you.

3 THE WITNESS: Thank you.

4 MR. THOMPSON: Your Honor, before you move on --

5 THE COURT: Yeah.

6 MR. THOMPSON: -- I may be able to -- I have some
7 suspicion of where this may go, but we had also, a witness list
8 and expected to be able to call witnesses on behalf of VSI and
9 our case-in-chief and that included -- that includes Mr.
10 Charles Bud Roberston (phonetic), Ms. Nicole Menine, Matthu
11 Rajan, among others. And I want to know whether we're going to
12 have that opportunity.

13 THE COURT: I don't have any need to hear from any
14 witnesses about the sale. What I was interested -- if there
15 were any concerns. Like, the concerns I was interested in
16 hearing about today was the sale process, if you thought that
17 there was something that Mr. Victor should have done or if you
18 had questions for the trustee. And I've heard all of your
19 questions, and I don't have any concerns about this sale. I
20 don't.

21 So that doesn't leave me to have any questions or
22 need to hear from your witnesses. Okay?

23 MR. THOMPSON: Our witnesses are going to testify
24 about the disposition of the assets that this trustee says he's
25 selling.

1 THE COURT: Right. And I think that the assets are
2 what they are and the buyer has reviewed the schedules and has
3 done their due diligence and is going to accept the assets as
4 is, wherever they are.

5 MR. THOMPSON: But the disposition of those assets
6 matters, Your Honor.

7 THE COURT: The disposition? There's going to be a
8 sale and the buyer's going to get the assets.

9 MR. THOMPSON: The assets that are Stream TV assets
10 that remain in the hands of the now winning bidder, the
11 stalking horse.

12 THE COURT: The buyer's going to get the assets on
13 the schedules. Okay?

14 MR. GEORGE: Will we have an opportunity to respond
15 to their filing of this morning, requesting a new order? And
16 then changes to the asset purchase agreement.

17 THE COURT: I'm going to give you 48 hours. If you
18 guys have any response to that, then -- okay. Would you like
19 72 hours?

20 MR. GEORGE: Is Monday morning -- what's the
21 difference --

22 THE COURT: Monday morning is fine. You can have
23 Monday morning to respond to the blackline order.

24 MR. WATTERS: Your Honor, this is Michael Watters,
25 for Shepherd Mullen, I'm counsel to Leia, Inc. I -- I have

1 some concerns about the sale order as well. I am sitting here
2 listening to the characterization of the sale, you know, your
3 characterization of the sale, I think, is inconsistent with the
4 redline order. I don't know if it's appropriate to raise that
5 now --

6 THE COURT: Okay. No. Yeah.

7 MR. WATTERS: -- order. All right.

8 THE COURT: Yeah. All right. I hear you.

9 So Pam, just mark on the docket --

10 MR. WATTERS: Yeah.

11 THE COURT: -- that any concerns with the blackline
12 order should be filed Monday close of business, 5:00 p.m.

13 Okay? Anything else?

14 MR. WATTERS: Okay.

15 MR. SWICK: I guess I just want to raise it formally,
16 and then to say we wanted to bring Matthu Rajan, Bud Roberston,
17 Nicole Menine, to testify, that's been denied.

18 THE COURT: Yeah. I find it totally irrelevant.

19 Thank you.

20 MR. GEORGE: Your Honor, I would move into evidence
21 our exhibits 1 through 6 and ask the Court to take judicial
22 notice of the motion to approve the Hawk settlement which is
23 docket number 630; the evidentiary record from that hearing,
24 which is 670; the 9019 order which is 653; the trustee opinion
25 which is 548; the order granting Hawk relief from stay, which

1 is 549; and the reservation of rights by Leia which is 841.

2 THE COURT: Okay. So moved.

3 MS. RUSSEL: Your Honor, Alyssa Russel from Skinner &
4 Skinner on behalf of SeeCubic. Regarding the request to
5 respond to the redline order, the APA contemplates an outside
6 date for answering the order of December 7th and our client has
7 a target closing -- outside date for closing of December 10th.

8 THE COURT: Yep. I'm going to resolve --

9 MS. RUSSEL: Your Honor has already --

10 THE COURT: -- everything before the 10th.

11 MS. RUSSEL: Okay. I was going to say --

12 MR. THOMPSON: Your Honor, no one put them here -- no
13 one put them here but them.

14 THE COURT: Huh? Yeah. Okay. I'm going to enter an
15 order prior to the 10th. All right. I think that concludes
16 our business here today.

17 MR. THOMPSON: Thank you, Your Honor.

18 MS. RUSSEL: Thank you, very much. Ma'am? Thanks.

19 (Proceedings adjourned)

20

21

22

23

24

25

C E R T I F I C A T E

I hereby certify that the foregoing is a true and correct transcript from the electronic sound recording of the proceedings in the above-entitled matter.

John Buckley

John Buckley, CET-623
Digital Court Proofreader

EXHIBIT C

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF PENNSYLVANIA

IN RE: :
: Case No. 23-10763
:
STREAM TV NETWORKS, INC. CH: 11 :
AND TECHNOVATIVE MEDIA, :
INC. : Philadelphia, Pennsylvania
: November 13, 2024
: 11:00 a.m.
. :

BEFORE THE HONORABLE ASHELY M. CHAN
UNITED STATES BANKRUPTCY JUDGE

APPEARANCES:

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Proceedings recorded by electronic sound recording;
transcript produced by TheRecordXchange.

1 NOVEMBER 13, 2024 11:00 A.M.

2 THE COURT: Okay. Is there anyone else on the phone
3 who is here for a case other than Stream TV? Okay. Thank you.

4 Party who just joined the call, the last four digits
5 6443. Could you identify -- I'm sorry, 6643, could you
6 identify yourself, please?

7 MR. CHARLTON: Yes. Samuel Charlton with SSG Capital
8 Advisers.

9 THE CLERK: Yes, with the last four digits 4063. Can
10 I have your last name, please?

11 All rise.

12 THE COURT: Morning. Please be seated. Court is now
13 in session. All right. This is the call on the 11:00 list.
14 The only matter remaining on the list is number 23, Stream TV
15 Networks and we have several parties on the phone and in the
16 courtroom.

17 Do you want to start with the people in the
18 courtroom, first?

19 UNIDENTIFIED SPEAKER: Uh-huh. Yeah, let's start
20 with the people in the courtroom.

21 THE COURT: Okay. We're going to start with the
22 people in the courtroom and get everyone's appearances.

23 Appearances, please, on Stream TV.

24 UNIDENTIFIED SPEAKER: Come sit at the table.

25 Welcome.

1 MR. THOMPSON: Morning, Your Honor. John Thompson of
2 Akerman on behalf of VSI and with me today is my colleague Adam
3 Swick and retired Judge Nick Clark from the Western District of
4 Texas.

5 THE COURT: Welcome.

6 MR. CLARK: Morning, Your Honor.

7 THE COURT: It's good to see you.

8 MR. CLARK: Thank you.

9 MR. DEMARCO: Good morning, Your Honor. This is
10 Andrew DeMarco from Devlin Law Firm here representing
11 Rembrandt. Also here with me is Christopher Michaels from
12 Brown and Michaels who will be handling any argument today.

13 THE COURT: Welcome.

14 MR. CAPONI: Good morning, Your Honor. Steven Caponi
15 from K&L Gates on behalf of Hawk.

16 THE COURT: Okay.

17 MS. BRUMME: Good morning, Your Honor. Marley Ann
18 Brumme of Skadden Arps on behalf of SeeCubic.

19 THE COURT: Okay. Great. I thought you guys were
20 going on the phone. You're going to be outnumbered.

21 MR. CAPONI: Yeah.

22 THE COURT: No, you're here. Okay. All right.
23 We're just entering appearance, so come on up and say hello.

24 MR. VAGNONI: Good morning, Your Honor. Michael
25 Vagnoni on behalf of Bill Homony, Chapter 11 Trustee. I have

1 with me Ed George and Steve Coran from Coran and Ress.

2 THE COURT: Okay.

3 MR. CORAN: Morning.

4 THE COURT: Good morning. All right. How about the
5 people on the phone? Did you want to note your appearance if
6 there's anywhere there?

7 Do we have anyone?

8 UNIDENTIFIED SPEAKER: Yeah. Yeah.

9 THE COURT: We do? The parties on the line, if every
10 -- if you could each speak one at a time and tell us who you're
11 here for on Stream TV and enter your appearances, please.

12 MR. EDEL: This is Jonathan Edel from K&L Gates on
13 behalf of Hawk Investment Holdings.

14 THE COURT: Okay. Anyone else or you think that's
15 it?

16 UNIDENTIFIED SPEAKER: They might just be observing.

17 THE COURT: Okay. Fine.

18 All right. Well, welcome back, everybody. I know
19 we're here on the reconsideration, which I will -- I guess I
20 just wanted to address the discovery issue. So the last time
21 we were talking on the phone, you guys had raised an issue
22 about the assets that were being sold and you had concerns
23 about whether there were licenses and I think Mr. Vagnoni, I
24 was giving you a week to try to clarify for them what assets
25 were going to be sold.

1 So have you had any productive conversations
2 hopefully with them?

3 MR. VAGNONI: Your Honor, we took your direction from
4 the last hearing, and we provided both VSI, accounts for VSI
5 and accounts with Rembrandt. A fairly exhausted list of what
6 the assets are. Not just the assets that we are -- that the
7 Trustee is selling, but the assets that are embedded in the
8 downstream subsidiaries whose equity we are selling as well.

9 That, I think, would have satisfied the Court's
10 concern in that regard. I have a copy of what we sent. I
11 didn't bring multiple copies. It's very thick. But we did
12 provide that. We did also receive a email on Friday of last
13 week asking for a meet and confer to discuss what discovery
14 would be taking place.

15 We did not engage in that meet and confer. We didn't
16 take your comments last week as we thought everything was
17 quashed to that point based on your ruling. So we did not meet
18 and confer. We were preparing for the hearing. But we -- and
19 we did not engage in any discovery again, because we thought
20 the discovery request had been quashed by Your Honor.

21 But again, we did provide them with a listing --

22 THE COURT: Okay. Well, let me --

23 MR. VAGNONI: -- on the --

24 THE COURT: -- see if they feel like they have a
25 better understanding.

1 So do you gentlemen have a better understanding of
2 exactly what's being sold?

3 MR. MICHAELS: We have no better understanding. Most
4 simply, are they accepting -- assuming, rejecting saying that
5 the Rembrandt contract is invalid, valid? What is their
6 position? Where is our IP? Have they removed it?

7 They're disclosure, this voluminous thing they
8 described has a single sentence that says, "software," right?
9 There's no discussion of -- we have asked over and over again,
10 are you in control of the software professional development
11 system? I.E., do you have the username and password? No
12 response.

13 THE COURT: Uh-huh.

14 MR. MICHAELS: We have no idea what they have. More
15 so, we're the ones that have provided a far more extensive list
16 of what assets we believe could be in that estate and we've
17 told them what documents we're relying upon and asked them,
18 what is the status of each of these individuals assets? No
19 response.

20 THE COURT: Okay. So --

21 MR. MICHAELS: We are no more clear than we have --

22 THE COURT: -- I've been with you guys up until this
23 point. But now, you know, they've got some serious concerns.
24 You know, their belief is that the sale of the asset is going
25 to violate all of these rights. It's going to spawn all of

1 this litigation about the licenses, right? That's their
2 concern.

3 And I'm willing to consider a sale of this, but at
4 the very basic level, we need to understand exactly what is
5 being sold, right? And it sounds like today they don't know.

6 So he just said that you said it's software. Do you
7 have something more specific than just the word software in
8 terms of this being sold?

9 MR. VAGNONI: There was -- Your Honor, first of all,
10 let me just address a couple of things that Mr. Michaels said.
11 I think he indicated once again to the Court that he hasn't
12 been made aware of whether or not the sale will include an
13 assumption and assignment of the Rembrandt license.

14 Paragraph 27 of our motion clearly indicates that
15 that license is not part of the sale transaction. It is not
16 going to be acquired by the stock and horse purchaser.
17 However, if there is a competitive bid, a bid that is a
18 superior bid to the stock and horse bid that wants the
19 Rembrandt license, absolutely we would entertain an assumption.
20 There would have to be discussion about what --

21 THE COURT: Okay. So let's -- what we're going to do
22 today, just so I have an idea, we're just going to take this
23 issue by issue. So you're saying that the license is not part
24 of the sale --

25 MR. VAGNONI: That's correct.

1 THE COURT: -- but you would contemplate bids on it.
2 I'm not sure how you'd write that into the bid procedure, but
3 we can talk about that in a minute.

4 So what's your response to that?

5 MR. MICHAELS: It's not an assignable license. It's
6 not their option to decide to sell it or not. That's -- and
7 neither is the Phillips license. It is -- we have -- we did
8 not need Mr. Vagnoni to explain to us whether or not our
9 license was assignable. It is absolutely not and all the case
10 law is --

11 THE COURT: Okay. Well --

12 MR. MICHAELS: -- if I don't mind?

13 THE COURT: Yeah.

14 MR. MICHAELS: Our issue isn't that the contract is
15 -- that they're attempting to assign it. They are clear
16 they're not attempting to assign the contract. It's the
17 intellectual property that is the basis of that. I mean,
18 saying I'm not handing you a piece of the car, the car title
19 is, you know, that -- but I'm going to hand them the keys to
20 the Lamborghini. I mean, we're concerned about the keys and
21 the Lamborghini, not the piece of paper that says we own it.
22 We already have that. I don't need them to tell me we have
23 that.

24 THE COURT: Yeah. Yeah, yeah.

25 MR. THOMPSON: Your Honor, if I might add?

1 THE COURT: Yeah.

2 MR. THOMPSON: There's a real problem with the bid
3 procedures in addition to those that Mr. Michaels rose --
4 raised. In this circumstance, Mr. Vagnoni has just told the
5 Court as his email to us told us that they are, I guess,
6 excluding the asset that is the Rembrandt license. The reasons
7 you just heard. It doesn't matter whether they wanted to
8 assume it and assign it, they could not.

9 But in this circumstance, right, they're suggesting
10 that some other party out there might come in and bid for it.
11 Well, how do we have a bid process where --

12 THE COURT: Yeah, yeah. Okay.

13 MR. THOMPSON: -- some other parties actually
14 consider --

15 THE COURT: Well, tell me this. If he -- if we have
16 -- let's say we have the bid, we had the auction, right, and
17 Hawk's the only one that shows up and under their purchase
18 agreement, they're not going to get it. Then does that take
19 care of your issue entirely because --

20 MR. MICHAELS: Not in any way, Your Honor. I mean,
21 we have listed out a huge number of trade secrets. We have a
22 bunch of patents. The very assets that they have listed where
23 they've talked about TV's, prototypes, demos, those are all --
24 were all alleged back in 2017 to have been covered by
25 Rembrandt --

1 THE COURT: All right. So let me just, like -- I'm
2 sorry. Let me just be more specific. So I want to take it
3 issue by issue.

4 MR. MICHAELS: Uh-huh.

5 THE COURT: So at least I understand. So he had
6 thrown out this comment that he's not attending to sell certain
7 licenses unless someone else bids for it. So with regard to
8 those licenses, if there's no other bidder and the stocking
9 horse gets it, Hawk gets it, then with regard to that license,
10 then I think we're all in agreement that the license isn't
11 being sold at all, right?

12 So I think you wouldn't have an issue if there's no
13 stocking horse -- if it's just a stocking horse bidder and
14 there's no other bidders with regard to the license.

15 MR. MICHAELS: With respect, we would. The issue
16 with the license -- it's not a question of will they assume or
17 reject it in the future. It's SSG offering for sale
18 Rembrandt's patented technology. That's a violation of Section
19 271. That's present today patent infringement -- you -- they
20 do not have a license to the Rembrandt technology.

21 THE COURT: Hold on a second. Who is that person?

22 All right. So I would ask everyone on the phone line
23 to try to mute your phone because we're -- someone's not muted,
24 so we're hearing everything in the courtroom that's going on
25 there. So could everyone just take a moment? How do they mute

1 their line?

2 UNIDENTIFIED SPEAKER: Star six.

3 THE COURT: So if you could just hit star six,
4 everyone on the line, I'd appreciate that.

5 MR. VAGNONI: Your Honor, if I may -- raise that
6 issue for a very specific reason. SSG is not offering that
7 license for sale. That is not part of the AP --

8 THE COURT: So when we say license, let's just drill
9 down a little bit. License of what?

10 MR. VAGNONI: Absolutely. Very vague.

11 THE COURT: License of what?

12 MR. VAGNONI: There is a 2021 settlement agreement
13 that a single line in it that is a -- called a grant of rights.
14 In that grant of rights, Rembrandt reports to give the rights
15 -- the nonexclusive rights to use their intellectual property.

16 By the way, that settlement agreement was entered
17 into the day or the day before Rembrandt -- they became a
18 creditor by virtue of that and then were a petitioning creditor
19 in Stream's failed involuntary bankruptcy in Delaware. We take
20 significant issue with that agreement as a whole. But let's
21 just take it as it is. That license agreement comes out of a
22 settlement agreement. And like I said, the -- SSG is not
23 offering that for sale. However, in the -- which you'll hear
24 about when we get to testimony.

25 In negotiations with VSI and with Rembrandt, it's

1 been made clear to us that if a transaction was to occur with
2 VSI, that the Rembrandt license would have no problem being
3 assumed.

4 And in fact, there are -- there is a post-petition
5 agreement that was entered into by Rembrandt Stream and VSI
6 that was not court approved that purported to do just that.
7 Give VSI rights in that license. And exclude Streams
8 subsidiaries from the use of that technology pursuant to that
9 license.

10 So that is why I indicated to the Court that if there
11 was a transaction that was a higher and better bid, which VSI
12 and Rembrandt are free to bid in this process. They've been
13 free all along. They've had access to the data room if they
14 wanted it.

15 The VSI is the only person who's taken up that offer.
16 That is what I was referring to. Not that it was generally
17 assignable. We don't think anybody has interest in it and we
18 also don't think we are selling any assets that have that --
19 Rembrandt intellectual property in that -- in the asset.

20 MR. MICHAELS: Your Honor, I'd like -- I apologize.
21 I'd really like a chance to finish answering your question that
22 you had asked previously.

23 THE COURT: Yes, that's fine.

24 MR. MICHAELS: So the -- you asked whether the issue
25 would be resolved if the Hawk party's just didn't take -- it

1 isn't a question of SSG selling our license. It isn't an
2 active patent infringement. The active patent infringement is
3 offering for sale in a patented invention on why Rembrandt,
4 right?

5 And the TVs, all of the assets that Mr. Vagnoni
6 clearly lists are being offered for sale. That is the active
7 patent infringement. SSG has committed patent infringement.
8 All five of those individuals have committed patent
9 infringement. The Trustee has committed patent infringement
10 unless they can show that they have a license.

11 So when Rembrandt is asking about the status of its
12 license, it is, are we suing those individuals and those
13 entities tomorrow? They -- it is -- if they have a license, we
14 can't. That is a full and absolute complete defense.

15 The agreement that Mr. Vagnoni's referring to is
16 Streams former counsel, almost immediately after filing the
17 petition contacted Rembrandt and said, we know we need a
18 license to your technology as an administrative claim. We need
19 to resolve this. And we signed a settlement amendment that
20 extended the time that prevented the estate from becoming
21 administratively insolvent due to the fees that were going to
22 be due to Rembrandt.

23 They have said they're not honoring that settlement
24 amendment. The arrears are \$3 million. Does the estate have
25 \$3 million to have that license?

1 THE COURT: So I'm trying to -- I feel like there's
2 litigation that's going to be spawned, right, by -- under the
3 licenses and I'm just trying to have a very basic understanding
4 of what is purportedly being sold by the Debtor.

5 MR. THOMPSON: They don't know, Your Honor.

6 THE COURT: I --

7 MR. THOMPSON: And that's --

8 THE COURT: -- and I get that. And I -- so I'm -- I
9 think that we have, like first thing -- what happened? Okay.
10 Good. Thank you for muting everybody.

11 So the first step to me seems that we should at least
12 come to an agreement, or at least I need to understand what is
13 being sold. So can we just focus on that for instance.

14 All right. So I think one of the comments -- and so,
15 you said before, like, they had described software or something
16 that was, like, their general description. So did you, Mr.
17 Vagnoni, describe on some schedule that software is going to be
18 sold as part of this?

19 MR. VAGNONI: Your Honor, I will -- if I may, to
20 preface what -- the answer to that question. What the Trustee
21 is selling is all of the assets of Stream, which are clearly
22 listed in schedules, which are a public document they have
23 access to.

24 Mr. Rajan, who is the head of VSI, signed those
25 scheduled, I believe, and he certainly took part in preparing

1 them. So he should know exactly what is in those schedules.
2 The other assets that are being sold in the APA are the equity
3 interest and all the subsidiaries of Technovative.

4 The software, the intellectual property, the license
5 to Phillips, all of that is contained in downstream
6 subsidiaries. We are not selling those assets per say. We're
7 selling the equity in those assets.

8 And this is typical of a case where a Chapter 11 or
9 Chapter 7 Trustee walks into a mess and sees that it's
10 spiraling out of control and tries to bring some control to the
11 situation and get the estate some money before there is no
12 money.

13 THE COURT: Okay. So again, my focus for right now
14 is, I'm just trying to understand what the assets are. So he's
15 telling me that he's purporting to sell the equity and the
16 entities that presumably are in possession perhaps of your
17 property, is that your understanding there?

18 MR. MICHAELS: Mr. Vagnoni just described the process
19 as typical, right? An IP -- a technology case of this sort,
20 purporting to sell intellectual property rights is anything but
21 typical. And I think --

22 THE COURT: Okay. So let's just focus on -- I just
23 want to drill down on what assets are being sold. So he's told
24 me that he's selling equity in entities that presumably possess
25 your intellectual property. Can we agree on that?

1 MR. MICHAELS: Yes.

2 THE COURT: Okay. Good. All right. That's
3 progress.

4 MR. MICHAELS: That's one -- I mean, that's one
5 aspect of what he said.

6 THE COURT: Okay. Fine. That's one aspect. Okay.
7 So tell me -- so your concern, though, is that when he purports
8 to sell the equity in these companies, then the buyer who takes
9 possession of the -- like, they buy the equity, right? Now,
10 they're going to own, you know, via that equity, everything,
11 you know, tangible and intangible that those entities own. And
12 your -- and so your position is that some of the assets that
13 they own are your property?

14 MR. MICHAELS: Yes.

15 THE COURT: Okay.

16 MR. EDEL: Your Honor, if I may --

17 THE COURT: Yeah.

18 MR. EDEL: -- since I'm representing Hawk. The --
19 Mr. Vagnoni is correct. We're -- the stalking horse is
20 acquiring the equity. Stream is a holding company. All the
21 operating entities, the main operating entities in the
22 Netherlands and requiring the stock that owns the stock that
23 owns the stock that owns that entity. The fundamental dispute
24 here is that Rembrandt believes that its trade secrets, its
25 knowledge, its know-how is embedded in everything that Stream

1 does.

2 So every TV that it has, every computer that it
3 touches, somehow can -- you know, involves their intellectual
4 property. Now, there's intellectual property such as patents.
5 Rembrandt brought patent litigation many years ago, but it was
6 dismissed, and they have not asserted a patent case.

7 They're really talking about the intellectual
8 property. We disagree. We believe that the technology that
9 Stream developed through its operating subsidiaries overseas is
10 -- belongs to Stream. If my client acquires the stock, it's
11 acquiring that entity, the good, the bad, and the ugly.

12 And if that means that entity, if Rembrandt believes
13 that entity has put intellectual property into a TV or trade
14 secrets, we'll duke it out after the fact. But what this is
15 all about, this is Rembrandt and attached to the hip of Mr.
16 Rajan trying to stop at every opportunity this case moving
17 forward.

18 THE COURT: Okay. I know.

19 MR. EDEL: Rembrandt --

20 THE COURT: You believe there's spoilers and I --

21 MR. EDEL: Well, Your Honor, I think it's -- it's not
22 just, I think. As Mr. Vagnoni indicated, they entered into a
23 settlement. They're standing before Your Honor before today
24 trying to hold up this sale. Rembrandt entered into an
25 agreement during the pendency of the bankruptcy and amended it

1 with Mr. Rajan where they identified all of their technology,
2 all of their knowhow, how they believed it was being used in
3 everything and said, if Mr. Rajan gets the company, all is good
4 in the world. No one else is allowed to have it.

5 And then come before the Court today and say, we have
6 no idea how he's using our stuff. Well, they had a pretty good
7 idea when they were executing documents, you know, in the
8 shadows during the pendency of a bankruptcy. But now they want
9 to come, Mr. Rajan, who founded the company, ran the company
10 until he was -- you know, the Court determined he was
11 uncredible and removed him. And throughout the entire pendency
12 of the second bankruptcy which dismisses fraudulent at the aide
13 of Rembrandt to today, they're attached at the hip.

14 This is, with all due respect to the Court, my client
15 has been through this process for many, many years. It's a
16 very simple sale. Nobody else, and I think this cannot be
17 lost, nobody else is interested in these assets. No one has
18 come forward to the pendency of the bankruptcy.

19 THE COURT: All right. But we aren't going to get
20 into this. But from what I understood, the data room is not
21 complete. I mean, there's --

22 MR. MICHAELS: That's right, Your Honor.

23 MR. EDEL: The --

24 MR. MICHAELS: That's by design.

25 MR. EDEL: -- data room is not complete because the

1 data room does not include the fraudulent documents Mr. Rajan
2 created during the bankruptcy, for example --

3 THE COURT: Okay. Well --

4 MR. EDEL: -- these purchase orders that don't exist.

5 THE COURT: I would like to just -- I would like to
6 be able to have civil conversations here today. And I
7 understand you guys don't like each other. I know that. So to
8 the extent that we could -- I understand. Like, I call it
9 spoilers. You think that they're spoilers. You guys think
10 that they're selling your assets, and everyone is really
11 annoyed with each other. I get the sentiment. I understand
12 that.

13 Okay. But it doesn't help me get to the point. So
14 let me tell you what I think is one possibility here, right?
15 So Mr. Vagnoni wants to sell the equity in these companies, if
16 there's -- if we get to the point of a sale and there's no
17 other bidders and Hawk picks up these assets, then under 363
18 when he gets all this stuff, to the extent that you think that
19 he's misusing it, then you're going to sue Hawk, right? Aren't
20 you going to sue Hawk?

21 MR. MICHAELS: We already have. They're in --

22 THE COURT: Yeah. Yeah.

23 MR. MICHAELS: -- we're in litigation in Delaware.

24 But I think what I'm trying to be clear here is that Mr.

25 Vagnoni has -- they're talking about a bunch of equity, and

1 he's also put on their asset list that they are selling devices
2 that are accused of being -- infringing over on Rembrandt's
3 patterns and Stream, under the guidance of DLA Piper, took a
4 license.

5 Stream again renewed that -- negotiated again are
6 Armstrong T -- they advised them to do that. Lewis Brisbois,
7 same thing. We have numerous law firms evaluating these claims
8 and saying this was a good idea. We have Mr. Homony testify.
9 He's done no investigation as to whether this is a good idea or
10 not. And they ignored the issue.

11 They have not -- if the Rembrandt is not valid, we're
12 hearing, you know, testimony that may or may not -- this
13 Rembrandt license may or may not be valid. It was, you know,
14 executed in 2021 right before a bankruptcy.

15 So if it's not valid, that means all the activity
16 that the estate to date are infringing a patent. I just want
17 to be clear that that's the argument, is that this estate goes
18 almost instantaneously administratively insolvent. And we are
19 looking for and we will ask the Courts -- the District Courts
20 to enjoin any transfer of our intellectual property.

21 Now we have licensed Stream. We have -- we are
22 arguing that the license is valid but cannot be transferred.
23 You may not transfer our intellectual property. You take a
24 ring, and you put it in a box and say, well, I'm just selling
25 this box, whatever may be in it.

1 You know, we've evaluated what's inside the box.
2 What's inside of SeeCubic B.V. is Rembrandt technology. We've
3 gone through that multiple law firms representing Stream. And
4 we have determined that a license was necessary. And SSG does
5 not get covered by ignorance. There's no, I didn't know, Your
6 Honor. It defends patent infringement.

7 They are actively offering for sale assets that
8 include that were directly laid out in the complaints back in
9 2017. And while Mr. Caponi said it was dismissed, it was a
10 jurisdictional. Every patent case under *TC Heartland*, the
11 Supreme Court case was dismissed and had to be brought in the
12 home state of the corporation.

13 And we immediately entered mediation, and they
14 insisted the DLA Piper's counsel and Streams officers, most
15 notably, Shadron Stastney, insisted that the patents be
16 included in the license agreement.

17 So this idea that they weren't important to Stream is
18 not supported by the facts in any way, shape, or form. And we
19 are asking for clarity, is the Trustee operating and is SSG
20 operating under the license? I.E. they therefore can't be sued
21 for trying to sell a TV covered by one of our patterns.

22 THE COURT: Okay. It sounds like they want to sell
23 equity and entities who have hard assets that contain your
24 intellectual property. So the owner of the equity will
25 presumably then own these hard assets that have your

1 intellectual property embedded in them. That's what I
2 understand?

3 MR. EDEL: That's Your Honor, that's if it indeed a
4 -- a bidder is capable of determining what they're buying or
5 what the assets underneath that equity.

6 UNIDENTIFIED SPEAKER: Your Honor?

7 MR. EDEL: We have a whole list -- excuse me. We
8 have a whole list of items that purport to the assets of the
9 Debtors. I'm telling you today that that is an incomplete list
10 that was filed on this docket reported to this set of assets
11 that are being sold, that's substantially all of the assets of
12 the Debtors and we can show that.

13 More than that, the data room is breath of lots of
14 information. And the process -- and I know Your Honor wants to
15 focus on the assets, I will focus on the assets, but as Mr.
16 Caponi tried to raise the broader issues. The broader issue
17 here is that this trustee has agreed to transfer this set of
18 assets to one party and one party only and that is the Hawk
19 parties, right?

20 And they've done pursuant to 9019 settlement
21 agreement that purports just to be a settlement agreement, but
22 it's a sub rosa plan, because there's no other entity out
23 there, whether they be a strategic buyer or another competitor
24 of a Stream TV that would be interested in these assets under
25 these conditions based upon these encumbrances. And it's not

1 just --

2 THE COURT: Okay. So gentlemen --

3 MR. EDEL: -- not --

4 THE COURT: -- let's just take a moment here. So in
5 terms of the bid procedures, I have concerns I think that you
6 guys raised. Some legitimate concerns, which we'll get to,
7 right?

8 So I see, like, several different areas that need to
9 be addressed over time. The first is, you need to know what is
10 being sold. They're selling the equities that contain the
11 equity of entities that own the tangible property that has your
12 intellectual property. So now you know. They're -- that's
13 what they're trying to sell.

14 So the first step is, I'd just like to get some
15 clarity and make sure that we're all on the same page as to
16 exactly what's being sold. Then we'll go through the bid
17 procedures and all of the many objections, some of which I
18 thought were meritorious. But some of the issues that you're
19 raising are really important issues.

20 But to me, they appear closer to sale issues, right?
21 It's going to be a huge issue when you object to the sale,
22 right? I'm going to -- it looks like I'm going to need some
23 briefs on all of the very important issues that you have to
24 raise. But those are issues that, you know, that I think are
25 more appropriately dealt with then, right?

1 So in terms of, you want discovery. So the discovery
2 that you want, I think it's important for you to get discovery
3 if it's necessary on what assets are being sold. But we have
4 that -- we now have that nailed down.

5 So let's focus first on what exactly is being sold.
6 So you're selling the equity that has hard assets, that has
7 their intellectual property embedded in it. So let's --

8 MR. VAGNONI: Allegedly, Your Honor. There's been
9 no --

10 THE COURT: Oh, okay.

11 MR. VAGNONI: -- there's been --

12 THE COURT: That's fine. I understand you're not
13 conceding anything. But I just want, for clarity sake, to
14 understand what it -- you know, what's being sold.

15 MR. MICHAELS: Your Honor, their agent, SSG, as
16 investment banker, sent out a teaser that purported to sell the
17 capability of making licenses of the Ultra-D technology.
18 Rembrandt's technology or IP is in it and so is Phillips.

19 THE COURT: Okay. So what we're -- so that's not --
20 what I'm talking about, like, a hard asset. Now you're talking
21 about some technology, is that --

22 MR. MICHAELS: In some cases, it is a hard asset.
23 There are -- this lens technology they patented.

24 MR. SWICK: Your Honor, Adam Swick, Akerman on behalf
25 of Visual Semi, VSI. The issue is they have a stalking horse

1 bidder that has been at odds with the former debtor --

2 THE COURT: Clearly. Yeah.

3 MR. SWICK: Yeah, yeah. And so, they took control of
4 the Debtors' assets, they broke into the Debtors' offices,
5 stole TVs, they stole intellectual property. They've been
6 using them. They've been showing. There's emails and letters
7 and we'd love to get discovery from the Trustees, because we
8 believe the Trustee knows all of this.

9 And so, they have TVs in different locations. They
10 have different hard assets. All this is purporting to be sold
11 by the Trustee who hasn't gotten it back, because that's the
12 stalking horse and they need the stalking horse to be able to
13 go out and raise money to fulfil their obligations. And as of
14 the filings last night, the stalking horse doesn't have the
15 money to pay for the 363 as it is right now.

16 So yeah, what we need is discovery on where are all
17 these TVs? They're all over the world. They're in the
18 different offices of SeeCubic and the Hawk parties. I mean,
19 Mr. Caponi up here, he represents the Hawk party's and Robert
20 Morten (phonetic), who's subject to a cold shoulder, which is
21 the worst crime of moral turpitude in the U.K. It's supposed
22 to end your career and that's who these guys have hitched their
23 wagon to. So we just need discovery to find the assets so we
24 -- if they want us to participate in a 363 sales process, how
25 are we going to do that if we don't know where the TVs are?

1 Who's --

2 THE COURT: Okay.

3 MR. SWICK: -- using them?

4 THE COURT: So again, let's just focus back on what I
5 care about. What I care about is, I want to know what they're
6 purportedly selling.

7 MR. SWICK: They don't know.

8 THE COURT: Okay. And I know you say that. But why
9 don't we just go through all of the concerns you have about the
10 identity of the assets?

11 Yes?

12 UNIDENTIFIED SPEAKER: Your Honor, going -- sort of
13 taking a broad step back, how we ended up here. My client has
14 a security interest. Again, Stream's the holding company. Has
15 no assets, other than stock and subsidiaries.

16 My client's security interest was primarily in the
17 stock and subsidiaries, not in the assets of the subsidiaries.
18 The 225 action, which we settled through the 9019, we were a
19 day away from taking control of that stock.

20 This settlement and this sale is effectively the same
21 thing. It's selling the stock. The companies that -- whatever
22 assets are in those companies that my client shows up and there
23 was TVs -- before my client and everybody else shows up,
24 there's TVs there, they own them. If they're not, they don't.

25 It's the stock. They want to drill down into -- and

1 if we get into this level, what TV is sitting in Copenhagen and
2 what software is on that TV, we're going to be here for six
3 years. One, we're never going to know because it's in
4 Copenhagen. But, we're going to be here for six years. This
5 is a sale of stock, the security interest was in the stock.
6 And absent the settlement, my client would have already had
7 it's one day hearing in a court of chancery and owned the
8 stock, this would all be muted. This is a path of least
9 resistance to an estate that never had any money and doesn't
10 have any money. This deal is --

11 THE COURT: Okay. I understand that you're buying the
12 stock. But in order for any potential bidder to understand
13 what they're buying, right, they know that they're getting the
14 stock. But presumably, they'd like to get a better idea of
15 what the hard assets or the intangibles are of the entities
16 whose stock you're purchasing, right?

17 So I think it's reasonable that there should at least
18 be some general description of -- you know, it doesn't have to
19 be, like, I don't need, like, a audit, right, of every single
20 TV or every single hard asset.

21 But isn't there some kind of --

22 UNIDENTIFIED SPEAKER: Your Honor --

23 THE COURT: -- schedule that we could put together
24 that would say, you know, all the -- I mean, I don't know. Are
25 you just purporting to say that all of the equipment and all of

1 the -- you know, every personal property owned by these
2 entities. But do we have, like, a vague description of, like --

3 UNIDENTIFIED SPEAKER: Well, there's --

4 THE COURT: -- you know, approximately this many TVs
5 or approximately this many --

6 MR. VAGNONI: Yes, Your Honor.

7 THE COURT: -- other things.

8 MR. VAGNONI: The --

9 THE COURT: Okay.

10 MR. VAGNONI: -- answer is yes. We have a list that
11 we're happy to share with you.

12 The -- one thing I want to point out to Your Honor is
13 the process that we -- that was started over a month ago that
14 was teasers were sent out to over 500 different entities, both
15 strategic and financial, by SSG. Mr. Victor is going to
16 testify about that for you as part of the sale procedure.

17 We got exactly zero interest from those teasers.
18 Nobody asked the question of who -- what is in there. The only
19 parties that expressed an interest were VSI and not Rembrandt
20 and a purported investor in VSI.

21 And we have worked with VSI, who by the way Your
22 Honor, I think you're getting the picture that they are in the
23 unique position to know exactly what those assets are that are
24 being sold. Exactly what they are.

25 VSI has expressed no interest in bidding on these.

1 They wanted to go down a sale process, which we will describe
2 to you why that is not a possibility. But not even speaking to
3 Mr. Michaels comments about the lawsuits and the estate being
4 administratively insolvent.

5 The purchaser is assuming all liability. Not just
6 from Rembrandt under an IP claim, but they're assuming any
7 liability from any alleged IP infringement. And they're fully
8 indemnifying the bankruptcy estates, the Trustee, and the
9 Trustees professionals.

10 MR. MICHAELS: Exactly, Your Honor.

11 MR. VAGNONI: We think that we are insulated -- and
12 that was based on what we think are hollow threats, but that
13 doesn't mean there won't be a lawsuit and that the Defense
14 won't impair the unsecured creditor's ability to get a
15 distribution. That's what we're trying to protect here.
16 That's what we're trying to specify.

17 THE COURT: Okay. So Mr. Vagnoni, let me tell you
18 what I'm interested in. You know, in a 363 sale, you know,
19 you're -- my concern is, I just want to make this a transparent
20 process so that any potential bidder could understand what is
21 being sold, right?

22 So it sounds like you -- you know, you have this
23 teaser. I haven't seen what the teaser says, but this list of
24 all of the -- you were saying that there was a schedule that
25 the owner of VSI -- what was his name again?

1 MR. VAGNONI: Mr. Rajan.

2 THE COURT: Mr. Rajan? Okay. So Mr. Rajan, at some
3 point, put together some kind of a schedule of what each of
4 these entities owned.

5 MR. VAGNONI: Schedule A. Oh, I'm sorry. Yes, the
6 Schedules A and B to the -- the official schedules of the
7 Debtors.

8 THE COURT: Okay.

9 MR. MICHAELS: Excuse me, Your Honor. I have to --
10 correct. Is that your -- is this the Trustees schedule or are
11 you suggesting --

12 THE COURT: I think --

13 MR. MICHAELS: -- that this is Mr. Rajans schedule.

14 THE COURT: No, I thought you were saying Stream's
15 schedule?

16 MR. VAGNONI: The Debtors.

17 THE COURT: Yeah.

18 MR. MICHAELS: Okay. So it wasn't Mr. Rajan's
19 schedule, just -- correct?

20 THE COURT: Yeah. No, no, no.

21 MR. MICHAELS: Correct.

22 THE COURT: I'm trying to understand. So when Stream
23 filed for bankruptcy, they had a file scheduled in the
24 statement of financial affairs and as part of that you have to
25 schedule Schedule A, which is the real property and Schedule B,

1 which is the personal property.

2 So when he put those schedules together, did he --
3 and he was putting together the personal property owned by the
4 entities whose equity you're selling in the sale, Mr. Vagnoni?

5 MR. VAGNONI: That's correct. And Your Honor, there
6 is zero intellectual property in that Schedule B.

7 THE COURT: Okay. But -- so I think that one issue
8 that I'm identifying is that the personal property that was
9 scheduled in Schedule B of Stream contained hard pieces of
10 equipment or something that they are now claiming has their
11 intellectual property embedded in.

12 I'm just trying to understand everyone's position.
13 You're saying that in Schedule B is a list of a bunch of hard
14 assets, right? And they're saying that in those pieces of hard
15 assets are some of their IP embedded in it?

16 MR. VAGNONI: Stream -- Your Honor, Steam is a
17 holding company.

18 THE COURT: Yes.

19 MR. VAGNONI: They're --

20 THE COURT: No, I understand.

21 MR. VAGNONI: I --

22 THE COURT: I understand they're a holding company,
23 but they put together Schedule B and Schedule B included hard
24 assets owned by their subsidiaries and affiliates, correct?

25 MR. VAGNONI: No, Your Honor.

1 THE COURT: Okay.

2 MR. VAGNONI: It was a list of assets that, again, we
3 -- the Trustee had no part in drafting.

4 THE COURT: Right, because this is before your time.

5 MR. VAGNONI: It was well before our time. And we --

6 THE COURT: So what -- let's describe. What's on
7 Schedule B?

8 MR. VAGNONI: It is a various list of equipment. On
9 Schedule B there is some office furniture. There's nothing
10 that we see that could contain Rembrandt's --

11 THE COURT: Well, I don't -- okay. At this point --

12 MR. VAGNONI: -- intellectual property.

13 THE COURT: -- let's -- okay. We're not going to be
14 able to resolve today whether -- you're not going to come to an
15 agreement with them as to whether or not their technology is
16 embedded in it. I just need --

17 MR. VAGNONI: Right.

18 THE COURT: -- to understand the argument, just so I
19 can try and move the case forward, okay?

20 MR. VAGNONI: Absolutely.

21 THE COURT: So what is on Schedule B? So it's the
22 furniture --

23 MR. VAGNONI: I don't have it with me and I can't
24 speak to what exactly is on it.

25 THE COURT: So does anyone have Schedule B of the --

1 MR. MICHAELS: Your Honor, I would just note that
2 there is an extensive list, over 800 pages long, attached to
3 Mr. Rajan's declaration in support of the filing --

4 THE COURT: Okay.

5 MR. MICHAELS: -- right? So --

6 MR. VAGNONI: That's not what we're talking about.

7 MR. MICHAELS: I'm sure it's not. I would just to
8 Your Honor that that's --

9 THE COURT: Okay.

10 MR. MICHAELS: -- on the record.

11 THE COURT: Okay. So -- but you're saying Schedule
12 B. So we're talking about the sale of equity of these
13 entities. Let's just call these entities, you know, the
14 subsidiaries, or I guess we just call them the entities.

15 So the entity stock is purported -- that's what
16 you're trying to sell. But these entities own certain hard
17 assets, correct? Aside from office equipment --

18 MR. VAGNONI: Correct.

19 THE COURT: -- and furniture, right?

20 MR. VAGNONI: Correct.

21 THE COURT: There's some -- there's other things.
22 TVs, right?

23 MR. VAGNONI: Potentially. We -- and Your Honor,
24 again, we --

25 THE COURT: When you say potentially, see that just -

1 - I just want to understand, you know, what is being sold.

2 MR. VAGNONI: There -- when I say potentially, there
3 are prototypes that are created by the Debtors downstream --

4 THE COURT: Entities.

5 MR. VAGNONI: -- subsidiaries.

6 THE COURT: Let's just focus on the entities. What
7 do the entities own? That's what I really want to focus on.

8 MR. VAGNONI: And again, I can give you the list we
9 sent them. The entities own intellectual property, they own
10 equipment that allows them to make prototypes of -- they're not
11 TVs. They are screens --

12 THE COURT: Uh-huh.

13 MR. VAGNONI: -- that show the technology to
14 potential investors or purchasers.

15 THE COURT: Yeah.

16 MR. VAGNONI: They own licenses, the Phillips
17 license. And really that's about it. The downstream entities
18 are meant to house intellectual property, they're meant to
19 house licenses, and they're meant to do research and
20 development.

21 THE COURT: Okay. So hold on one second.

22 MR. VAGNONI: And the Trustees can testify to that.

23 THE COURT: So I presume, though, that your client,
24 Mr. Rajan, that he was the owner of Stream, right? He knew
25 what all of these subsidiaries owned. Didn't he know that?

1 UNIDENTIFIED SPEAKER: Yes, and he knows what was
2 taken by the stalking horse bidder and never returned after --

3 THE COURT: Okay.

4 UNIDENTIFIED SPEAKER: -- contempt of court --

5 THE COURT: Yes.

6 UNIDENTIFIED SPEAKER: -- in various litigations.

7 THE COURT: Okay. So --

8 UNIDENTIFIED SPEAKER: And there's bonding --

9 THE COURT: Again --

10 UNIDENTIFIED SPEAKER: -- machines that are tens of
11 millions of dollars.

12 THE COURT: -- this is what I care about. I just
13 want to identify the assets that are being sold. So doesn't it
14 seem that Mr. Rajan knows exactly what assets are owned by the
15 entities?

16 MR. MICHAELS: I would say, Your Honor, he does have
17 an understanding in -- probably in fairly good detail, and
18 that's the point that he has been making to the Trustee at
19 nauseum.

20 THE COURT: Okay. So -- but --

21 MR. MICHAELS: Right.

22 THE COURT: -- so you --

23 MR. MICHAELS: Your Honor, I just -- if I may, just
24 to complete the thought. It's that they don't understand that
25 there are other encumbrances including Rembrandt's license,

1 including the Phillips license on that property. And I would
2 say importantly that there is material amounts of assets that
3 have been in violation of the TRO, absconded with by Mr.
4 Stastney --

5 THE COURT: So if you --

6 MR. MICHAELS: -- and that has --

7 THE COURT: -- you think that -- that's a complete
8 separate issue.

9 MR. MICHAELS: Well, it's not, Your Honor --

10 THE COURT: That you think that.

11 MR. MICHAELS: -- because that intellectual property
12 that is in those prototypes, samples that are taken to market
13 to try to get investors and customers to buy or purchase the
14 ultimately asset that is Stream TVs product, those things have
15 the intellectual property not only of Stream TV, but also
16 Rembrandt and also Phillips embedded in it.

17 There's -- I mean, it was no accident that Mr.
18 Stastney on behalf of SeeCubic, Inc. and the Hawk party's
19 absconded with monitors that this trustee actually witnessed
20 with Mr. Stastney giving him a demonstration.

21 THE COURT: Okay. So who --

22 MR. MICHAELS: That happened.

23 THE COURT: So you're saying that Hawk has monitors
24 and Stream has monitors of the entities?

25 MR. MICHAELS: I'm saying that the Hawk parties,

1 specifically Mr. Stastney, SeeCubic, Inc. definitely had took
2 both monitors that are samples. They were displayed to be able
3 to sell the product. It obviously has embedded technology in
4 it. He took servers. He took computers. All of that would
5 have had his code in it, including Rembrandt's code.

6 THE COURT: Okay. So -- but are you saying that
7 that's not part of the sale or it is part of the sale?

8 MR. MICHAELS: I'm just suggesting to you that those
9 particular assets are not on the list. It was just filed by
10 the Trustee in support of the asset listing.

11 THE COURT: All right. All right. So hold on one
12 second.

13 UNIDENTIFIED SPEAKER: Your Honor?

14 THE COURT: No, hold on. Hold on one second.

15 You guys can all have a seat. We're going to be here
16 for a little bit.

17 So he's saying that some of the assets are not in the
18 possession of Stream. That they're in the possession of Hawk.
19 What's your response to that Mr. Vagnoni?

20 MR. VAGNONI: Your Honor, there -- it's clear to the
21 Trustee that there are assets that are not in his possession.

22 THE COURT: And are they in the possession of Hawk?

23 MR. VAGNONI: We are not aware of that, Your Honor.

24 We -- what we are --

25 THE COURT: So -- okay. Let me just ask you one

1 question. Do you think that there are assets owned by Stream
2 that are not in Streams possession?

3 MR. VAGNONI: Yes, there is -- there's a bonding
4 machine in China --

5 THE COURT: Okay.

6 MR. VAGNONI: -- that the Trustee has neither the
7 money or nor the wherewithal to get. We've gotten various
8 reports -- that was the subject of mediation which --

9 THE COURT: So does Hawk own any -- does Hawk -- is
10 Hawk in possession of any assets by Stream?

11 MR. VAGNONI: Not that I'm aware of, Your Honor.
12 SCBV, SeeCubic B.V. has prototypes. There is -- Mr. Stastney
13 is the director of SCBV. There is -- we have no indication
14 that Hawk is in possession of anything. If they are, that --
15 we've heard of tail of it, but we've never been given any
16 evidence that they have -- that Hawk has anything that is --

17 THE COURT: Why do you guys think that Hawk has the
18 Stream properties?

19 UNIDENTIFIED SPEAKER: Well, Hawk and its
20 subsidiaries broke into Streams offices and took them.

21 THE COURT: Okay. So let's stop right there.

22 UNIDENTIFIED SPEAKER: Yeah.

23 THE COURT: Okay. So let's go the Hawk person.

24 So they're accusing you guys of having broken into
25 Streams building and stolen things. So what's your response to

1 that?

2 MR. CAPONI: My response, Your Honor, it's part of
3 the same delusion arguments we've been dealing with for six
4 years. The -- as a result of the original settlement
5 agreement, the -- give you a brief history. Mr. Rajan borrowed
6 a bunch of money, never repaid it, the secured lenders reached
7 an accommodation with all the other directors and shareholders
8 to restructure, that led to an omnibus settlement agreement.

9 Following the omnibus settlement agreement, Mr.
10 Stastney took control and operated the entities for quite a
11 period of time before that was reversed. And when that was
12 reversed by the Delaware Supreme Court, they went back to the
13 Court of Chancery, and they were orders entered that required
14 everything to be turned back over.

15 Vice Chancellor Laster supervised that turning back
16 over and Mr. Rajan took back control of the company. Ever
17 since then, like a child afraid of the dark, they're constantly
18 saying there's this here, there's this under that bed, but
19 there's no evidence, no Judge, no ruling, no nothing. I can't
20 disprove the negative.

21 My client lent money; my client is not here. My
22 client here is a collateral agent for SeeCubic, Inc., which
23 owns the debt and we're just exercising our debt rights. They
24 want to --

25 THE COURT: Okay.

1 MR. CAPONI: -- full stop --

2 THE COURT: It's helpful --

3 MR. CAPONI: -- we have nothing.

4 THE COURT: -- for me if I just get answers to my
5 questions. So I just want you on the record, do you believe
6 that Hawk is in possession of any property owned by Stream?

7 MR. CAPONI: Hawk? No.

8 THE COURT: Okay.

9 MR. MICHAELS: Excuse me, Your Honor. I'm sorry.

10 THE COURT: Yes.

11 MR. MICHAELS: We each refer to the Hawk party's that
12 includes SeeCubic, Inc. Delaware and Mr. Stastney in his
13 individual capacity.

14 THE COURT: Okay. So with that --

15 MR. MICHAELS: We have evidence of that.

16 THE COURT: -- those --

17 MR. MICHAELS: Now, Mister -- I'm sorry.

18 THE COURT: Okay. So do any of those entities, do
19 you know? And if you don't know, that's fine.

20 MR. CAPONI: Well, I am not -- what I -- no, I am not
21 aware of them in possession of anything. I am --

22 THE COURT: That's owned by Stream?

23 MR. CAPONI: -- Jon may be able to address this, but
24 when Skadden was representing SeeCubic, Inc. in the Court of
25 Chancery, Schedules were put together, everything was turned

1 back over, it was done in detail. My client was not involved
2 in that. What I can say, Your Honor, and this gets to, again,
3 the whole -- of today.

4 There is this concept on the part of the other side
5 that once SeeCubic, Inc. took over through the omnibus
6 agreement, every piece of paper, every pen, every everything is
7 in -- somehow contains something that belongs to them. So if
8 there's a laptop, there's a TV. If there was a pitcher for
9 water that was in a conference room, they're claiming it's got
10 Rembrandt's technology. We don't agree with any of that.

11 We think we own the pitcher. We can -- we've gone
12 around and around in multiple courts with them about who owns
13 this, who owns that. As we stand here today, they don't have
14 any shred of evidence. They don't have a court order. They
15 don't have a document. They don't have a bill of sale. They
16 don't have a photograph. They don't have anything to
17 substantiate what they're saying.

18 My client has nothing that belongs to Rembrandt. My
19 client has nothing that belongs to this debtor. It is my
20 understanding as I stand here today and neither does Mr.
21 Stastney or does SeeCubic, Inc. We're never going to reach
22 agreement of this.

23 You could have discovery until the cow comes home,
24 they're going to say, well, no, no, we think it's in there
25 somewhere. Now, if it's not in the trunk, slash the tires and

1 see if he, like, you know, hid it in the tires.

2 THE COURT: So I understand your position, okay? But
3 I don't want to keep going around and around with the
4 arguments, okay?

5 MR. CAPONI: The answer is no, we don't have it.

6 THE COURT: That's great. That's all I need to hear.

7 MR. CAPONI: Absolutely.

8 MR. MICHAELS: Your Honor, I think it's important
9 that Mr. Caponi just told you that his client does not have it,
10 but he also told you that the Delaware Court supervised the
11 return of assets that was under court order to return after the
12 Delaware Supreme Court's decision.

13 He's not telling you that his client doesn't have it
14 and he doesn't know about anybody else. I will tell you that
15 we have evidence that Mr. Stastney and SeeCubic, Inc. of
16 Delaware did take assets, does possess assets now. Has used
17 those assets.

18 THE COURT: Well, okay. So just describe for me what
19 the basis of that evidence is.

20 MR. MICHAELS: The basis of that evidence is, I'll
21 start with just the Trustee. The Trustee saw those assets
22 during a meeting that he had with Mr. Stastney, in which --

23 THE COURT: When you say trustee, you're saying?

24 MR. MICHAELS: I'm saying Mr. Homony.

25 THE COURT: Okay.

1 MR. MICHAELS: Right?

2 THE COURT: Hello?

3 MR. MICHAELS: Who admitted to our client that it was
4 -- that he had actually observed it. That's one.

5 THE COURT: He had observed what?

6 MR. MICHAELS: He had observed a monitor built by
7 Stream TV in --

8 THE COURT: Uh-huh.

9 MR. MICHAELS: - the possession of Shad Stastney
10 during the pendency of this bankruptcy.

11 THE COURT: Okay. So --

12 MR. CAPONI: Your Honor, if I --

13 THE COURT: Yeah.

14 MR. CAPONI: -- this goes to when SeeCubic, Inc.
15 verses SeeCubic, B.V. SeeCubic, Inc. after everything was
16 turned around, continued to develop its own technology in this
17 space. That's -- they believe that everything in SeeCubic,
18 that's it's been developing, again, incorporates Streams
19 technology, which therefore incorporates Rembrandt's
20 technology.

21 So are there TVs? Yes. Are there laptops? Yes. Do
22 they belong to them? No. Have they -- and I would just put it
23 to the Court this way, if they believe this information or
24 these assets were retained, why did they not go to the Court of
25 Chancery, get an order to establish that?

1 Why during the year plus that I've been coming to
2 this court and the bankruptcy have they not, when Mr. Rajan
3 controls everything, get relief from the Court?

4 THE COURT: Okay. So let's everyone just return to
5 my focus, which is what is being sold?

6 Did you want to say something, ma'am?

7 MS. BRUMME: Yes, briefly, Your Honor.

8 THE COURT: Who do you represent?

9 MS. BRUMME: Marley Ann Brumme from Skadden on behalf
10 of SeeCubic, Inc., the Delaware entity. And contrary to what
11 our friends over here have to say, the supervision process of
12 the return of the assets from SeeCubic, Inc. back to Stream was
13 supervised by Vice Chancellor Laster and we've been hearing for
14 a year at least that SeeCubic, Inc. has not returned things.

15 That Mr. Stastney has things and until this bit of
16 evidence that he's presented here today about the Trustee
17 apparently seeing a demo unit, we've never seen any evidence to
18 substantiate that SeeCubic, Inc., the US entity and Mr.
19 Stastney, retained any assets.

20 What I think is getting lost here is that Stream TV,
21 as I think Your Honor understands, is a holding company. The
22 demo units were developed and built by SeeCubic B.V. in the
23 Netherlands, which is five entities down in the corporate
24 structure. Any demo unit that has been produced and especially
25 one that Mr. Homony has seen would be from SeeCubic B.V., which

1 is not a debtor here.

2 Further, Mr. Stastney, which they love to impugn
3 here.

4 THE COURT: The entity that you just said, though,
5 are they trying to sell the equity in that entity? The one
6 that's not the Debtor?

7 MS. BRUMME: It's five levels down. So Stream --

8 THE COURT: But they are trying? That is being sold
9 as part of the --

10 MS. BRUMME: The equity would be sold in the first
11 level subsidiaries.

12 THE COURT: And so they would own that equity?

13 MS. BRUMME: And then it would waterfall down.

14 THE COURT: Okay.

15 MS. BRUMME: Mr. Stastney notably is the director of
16 SeeCubic B.V. the Netherlands entity that develops all the
17 tech, and Mr. Stastney was installed as director by a
18 Netherlands Court when moving Mr. Rajan.

19 So any sort of implication that Mr. Stastney and
20 SeeCubic, Inc. are unlawfully retaining anything, there's no
21 evidence of that, one. And two, they can't conflate SeeCubic,
22 Inc. and what's going on at SeeCubic B.V.

23 THE COURT: Okay. Thank you. Okay. Let's stop one
24 second.

25 So I think what would be helpful for me is if we

1 could focus on all the potential bidders that are out there
2 that are not in this courtroom. And my job is to make sure
3 that they understand exactly what is being sold. So just
4 describing the equity, obviously, is not sufficient, because,
5 you know, the -- each of the entities whose equity is being
6 sold has some kind of personal property and that, I think, is
7 the schedule that I'd like to focus on.

8 So what is -- so is there, like, a schedule as part
9 of your, you know, proposed asset purchase agreement that
10 lists, you know, what is owned by the entities whose stock is
11 being sold?

12 MR. VAGNONI: We -- Your Honor, we do not have the
13 schedule together yet. But we do have the list of assets that
14 were turned over to --

15 THE COURT: Okay.

16 MR. VAGNONI: -- VSI.

17 THE COURT: So let's be clear. I don't want to set
18 up any procedures until we're clear on exactly what assets are
19 being sold, so that other potential bidders can have some idea.

20 So this is what I would envision if I was a potential
21 bidder. I see that the stock is being sold. I'd want to see
22 some general description of the assets that are owned by those
23 entities, so I know what it is that I'm buying. Now, obviously
24 you can't give me, like, pictures, so that's what we engage in
25 the due diligence process, right? A potential bidder --

1 MR. VAGNONI: Correct. And --

2 THE COURT: -- would see, like, a schedule that says,
3 you know, ten TVs and -- or whatever TVs.

4 MR. VAGNONI: Correct, Your Honor.

5 THE COURT: And then if their interest has peaked,
6 they would do their due diligence. And if they wanted to, they
7 could go out and go look at all this stuff or go look in the
8 room or do whatever.

9 MR. VAGNONI: So Your Honor --

10 THE COURT: Yeah.

11 MR. VAGNONI: -- that -- I -- you're correct in what
12 you're saying. And the process that was setup by SSG was that
13 a teaser would go out to drum up interest in potential bidders.

14 THE COURT: So what does the teaser say, just so I
15 understand? Do you have it?

16 MR. VAGNONI: Yeah, I absolutely do.

17 THE COURT: All right. Show me a teaser.

18 MR. VAGNONI: I have a book of art --

19 MR. MICHAELS: Your Honor, if I may? As you're
20 looking through the teaser, you will note that is specifically
21 mentions the Phillips license. Attached to that Phillips
22 license is a laundry list of software assets --

23 THE COURT: Uh-huh.

24 MR. MICHAELS: -- by title, function, what they do.

25 THE COURT: Uh-huh.

1 MR. MICHAELS: And we have asked since March whether
2 or not those are being included in the assets with zero
3 response.

4 You had said -- you had made an offhand comment
5 earlier about, well, you're not asking for an audit for
6 anything. However, the Phillips license requires an audit.
7 That that technology has been removed at termination of that
8 license, which would be caused by a change of control, I.E.,
9 sale of the entity.

10 THE COURT: That's a sale issue to me. You object to
11 the sale, because that's not permitted. As for the bid
12 procedure stage, I just need to identify what assets are being
13 sold.

14 MR. MICHAELS: My point to you, Your Honor, is there
15 is already a long list of software assets provided in the
16 Phillips license, along with a bunch of know-how and that -- a
17 simple question. Is this being included in the sale or not?
18 Is what we have asked. And I think is a touchstone for the
19 kind of list we are looking for here.

20 In addition, it seems that the retention of an expert
21 to walk through the Rembrandt list, we've provided a detailed
22 list of those trade secrets in the Delaware case and can --
23 that can ascertain whether or not those assets are or are not
24 included.

25 THE COURT: Okay.

1 Mr. Vagnoni, did you have the teaser?

2 MR. VAGNONI: I do, by a book.

3 THE COURT: Okay. How -- the teaser is the binder?

4 MR. VAGNONI: No, it's in the binder.

5 THE COURT: Oh, okay. All right. So go ahead.

6 Which -- what's the tab of this?

7 MR. VAGNONI: Tab four.

8 THE COURT: Okay. And you guys -- I'm presuming

9 you've seen the teaser?

10 MR. CAPONI: I have in front of me, Your Honor.

11 THE COURT: Oh, good.

12 MR. MICHAELS: We saw it. It's filed in the papers.

13 But we --

14 MR. VAGNONI: And Your Honor, if I may?

15 MR. MICHAELS: -- did not get it.

16 MR. VAGNONI: That teaser was -- as I'm sure you're

17 aware, the initial document that was sent out, again, to over

18 500 different entities, that then invited them to contact SSG

19 so they could go into --

20 THE COURT: Okay.

21 MR. VAGNONI: -- a more complete data room.

22 THE COURT: I see that this is a one-piece teaser,

23 right?

24 MR. VAGNONI: Correct.

25 THE COURT: But as part of any potential sale, we

1 need to have schedules of -- you know, schedules of, you know,
2 what's being sold. Like, what's owned by those entities,
3 something, a description. Like, TVs or, you know,
4 approximately --

5 MR. VAGNONI: So --

6 THE COURT: -- 100 TVs or something.

7 MR. VAGNONI: Correct. And the irony of that
8 comment, Your Honor, is that yes, there would be a schedule
9 available to any potential bidder --

10 THE COURT: Uh-huh.

11 MR. VAGNONI: -- who wanted to come in and do due
12 diligence. There has been zero bidders that have even
13 scratched the surface of learning about this technology. The
14 only entity that desired to look in the data room was VSI,
15 who's made is abundantly clear to the Trustee that they have no
16 interest in bidding on the purchase of these assets.

17 THE COURT: So is your position, Mr. Vagnoni, that
18 this teaser provides sufficient information to potential
19 bidders that would allow them to show interest in this?

20 MR. VAGNONI: Yes.

21 THE COURT: So this one page, if someone likes what
22 they see, then they'll proceed with you? And if they don't,
23 like, this is sufficient information to kind of vet whether --

24 MR. VAGNONI: So --

25 THE COURT: -- there's interest out there?

1 MR. VAGNONI: Correct. And the Trustee hired SSG as
2 his investment banker and SSG as we've seen them do in numerous
3 occasions, initiates contact by first identifying potential
4 parties. They identified 500 plus different entities that they
5 sent that out to. Again, both financial and people in the
6 industry. And they sent that teaser out to those entities.

7 THE COURT: Okay. Fine. And they didn't get a
8 response. Okay.

9 MR. VAGNONI: They got it with -- let me be clear.
10 They got one response from someone other than Rembrandt and
11 Rembrandt -- VSI and VSIs purported investor. That party
12 declined to sign an NDA once they spoke to SSG. And we'll --
13 Mr. Victor will describe why.

14 THE COURT: Okay. All right. Well, I'll --

15 MR. SWICK: Your Honor, I would --

16 THE COURT: -- this teaser.

17 MR. SWICK: Excuse me. I would just add that I think
18 Mr. Vagnoni -- I think Mr. Vagnoni has just given us an
19 admission against interest.

20 THE COURT: A what?

21 MR. SWICK: And a --

22 THE COURT: A what?

23 MR. SWICK: An admission against interest, right?
24 That this teaser yielded no bidders, other than the people who
25 already know about these assets. And why would there be no

1 bidders? Well, probably because they read things in a teaser
2 like this and they're sophisticated actors and they understand
3 the --

4 THE COURT: Okay. So --

5 MR. SWICK: -- effort to license things --

6 THE COURT: Okay.

7 MR. SWICK: -- that they cannot --

8 THE COURT: All right.

9 MR. SWICK: -- license.

10 THE COURT: I understand.

11 MR. SWICK: Is not appropriate.

12 THE COURT: Okay.

13 MR. SWICK: Okay.

14 THE COURT: Fine.

15 MR. VAGNONI: That --

16 THE COURT: All right. So --

17 MR. VAGNONI: -- is quite a leap, Your Honor.

18 THE COURT: Okay. So as part of the sale process,
19 though, will there be a more robust description then? Like
20 schedules of the assets owned by these entities? Something?
21 Some description?

22 MR. VAGNONI: Your Honor, and again, Mr. Victor is
23 prepared to testify today. But at this point after a month out
24 in the market and there having been no interest in --

25 THE COURT: Are you suggesting that because there's

1 no interest in the market that there's no need to prepare
2 schedules?

3 MR. VAGNONI: No, no, no. There are -- schedules are
4 being prepared.

5 THE COURT: Okay.

6 MR. VAGNONI: That will be attached to the APA to
7 make it clear what is being -- but I think they're going to be
8 more simplistic than what you are considering.

9 THE COURT: Okay. So what --

10 MR. VAGNONI: Any potential --

11 THE COURT: -- so just generally describe what it is.
12 It's going to be, like, equipment or software or --

13 MR. VAGNONI: Lists all of the assets of Stream and
14 the equity interest in Technovative subsidiaries. Now, Your
15 Honor, that doesn't mean that if someone who had interest in
16 getting due diligence on these assets --

17 THE COURT: Couldn't come in and --

18 MR. VAGNONI: -- wanted to get more information.

19 THE COURT: Yeah.

20 MR. VAGNONI: That SSG wouldn't give them whatever
21 they wanted. If they said, we want to know exactly what
22 SeeCubic, Inc. holds, they would have it. And a lot of that is
23 already in the data room. That's part of the process that SSG
24 runs.

25 THE COURT: Okay. I understand --

1 MR. VAGNONI: You don't send out a teaser that has --
2 THE COURT: Okay. I understand.
3 MR. VAGNONI: -- hundreds of pages.
4 THE COURT: Yes?
5 UNIDENTIFIED SPEAKER: Well, the data room, which was
6 prepared, then Your Honor asks for a list of assets, they
7 provide a list of assets.
8 THE COURT: In the data room?
9 UNIDENTIFIED SPEAKER: A lot of these assets weren't
10 in the data room before.
11 THE COURT: Okay.
12 UNIDENTIFIED SPEAKER: The Phillips IP wasn't there.
13 And I also want to say, this investor, he provided 170-million-
14 dollar proof funds. When they asked for it -- so liquid funds
15 in an account. They said, we just want to do some due
16 diligence, all right? They sat on that for three months. That
17 took \$1.8 million from our investor.
18 So this investment you're talking about, these are
19 the entities who want to buy these assets, bind this company to
20 a plan. It's getting sorted at every turn, because they're
21 married to this 9019 with the Hawk parties. But we have real
22 money. We want to pay unsecured creditors. We have to have
23 due diligence. We've got to get forward on this. And I mean --
24 THE COURT: Weren't you guys going to put together a
25 plan or something?

1 UNIDENTIFIED SPEAKER: Yeah, but we have --

2 THE COURT: So did you file the plan?

3 UNIDENTIFIED SPEAKER: No, we're going -- we have to
4 get diligence to know where the assets are so we can have it --
5 they want an unconditional offer for almost \$200 million for
6 these assets. We want to give it to them. But we also need to
7 know, where's the bonding machine? Is it still functional?
8 They said we could access to it. Then they said, oh, here's
9 some photos. We're not going to give you access to it and the
10 photos are two and a half years old, because they don't know --
11 like, the bonding machine is tens of millions of dollars.

12 THE COURT: Okay. All right. Okay.

13 All right. So --

14 MR. CLARK: Can I make a brief intervention?

15 THE COURT: Yes.

16 MR. CLARK: I apologize. And I won't make very many
17 interventions in this matter because there are people here who
18 know a lot more about this case than I do. I'm a recent entry.

19 But I appreciate the Court's concern about making
20 sure that you have an open and fair bid procedure so that you
21 can have a true 363 sale. The problem that we have here is
22 this case reminds me a lot of *Fiskarata* (phonetic) we have a
23 secured claim from a secured creditor that I understand lent in
24 terms of hard money about \$39 million. Maybe 45, depending on
25 whether you count some additional advances by Mr. Stastney.

1 But now we have a 9019 that says their actual claim is \$180
2 million. And that they can credit the -- their 150 million of
3 it.

4 As in *Fiskarata* with a credit bid of \$150 million,
5 that means that the stalking horse bidder doesn't actually have
6 to put up anymore in terms of cash than the seven and a half
7 million dollars that they said they were going to credit.

8 THE COURT: They're going to credit it. Right.

9 MR. CLARK: So for seven and a half million dollars,
10 they get in the door. Anybody else who wants to play this game
11 has to come up with cash, cash in the amount of \$157.5 million.

12 MR. VAGNONI: That's not accurate.

13 MR. CLARK: Excuse me. I'm sorry, maybe it's less.
14 But it's a lot more than \$39 million, that's for sure.

15 And that's -- and to me, that's the real story here.
16 That we have a bid process where the amount of money that
17 anybody else who wants to play this game has to come up with,
18 certainly north of \$100 million in order to be able to play
19 this game and be prepared to close in December.

20 If we were talking about a plan process so I could
21 understand how we could come up with a structure where \$170
22 million or such might end up being -- be folded into a plan.
23 But on a expedited sale process, where the proposed bidders
24 don't know for sure what's going to be sold until --

25 THE COURT: Why do you say it's a expedited sale

1 process?

2 MR. CLARK: -- we get to today.

3 THE COURT: Why do you say it's an expedited sale
4 process?

5 MR. CLARK: Well, it's expedited in the sense that
6 the bid procedures motion contemplates that the bids will be
7 received -- binding bids will be received by Friday of this
8 week. So that gives whoever's going to buy this, other than
9 Hawk, two days to do the due diligence that we're talking
10 about. Two days. And that the Trustee will then make a
11 decision on Monday. And then the sale will close in December.

12 Now, as a practical matter, that's not what I would
13 call an open and transparent process. So if you want to know
14 why there aren't other bidders here, it seems to me it's
15 straight forward. With a 180 -- 157.5-million-dollar credit
16 bid in place, nobody's going to come to the table.

17 THE COURT: So I think, though, what I'm hearing is
18 that the credit bid is a hurdle to other potential bidders from
19 entering the situation? Unfortunately, I've already approved
20 the settlement, the 9019 agreement that they have. So that's
21 what Hawk is. I mean, and they --

22 MR. CLARK: I understand that, Your Honor. And --

23 THE COURT: -- and because I've approved that, they
24 have -- they're allowed a credit bid. That's just part of the
25 system.

1 MR. CLARK: And candidly, Your Honor, as I look
2 through this, looking at it from the standpoint, you know,
3 obviously I've sat in your position. So I asked the same kinds
4 of questions I would like to think that you would ask. And
5 what occurred to me in this particular case is there is a
6 motion to reconsider and I'm glad that it hasn't been ruled on
7 yet because it strikes me that this process is fundamentally
8 flawed because of the provisions that were put in that 9019,
9 that they were all but certain to assure that there would be no
10 other bidders.

11 THE COURT: Okay. Thank you, sir.

12 MR. CLARK: Thank you, Your Honor.

13 THE COURT: You're welcome.

14 MR. VAGNONI: And Your Honor, just so we're clear on
15 the -- there are very limited issues that's why in the motion
16 to reconsider one of which isn't --

17 THE COURT: Let's focus on the bid procedure, shall
18 we? I think I'd like to just hone in on some of those things.
19 I don't want to hear re-argument on something I already heard
20 on. Okay. So I want to talk about some of the substantive
21 concerns that Rembrandt and VSI has raised in their objections,
22 if we could turn to that for a minute. Let me just get this.
23 Okay. So I wanted to take, for instance, the bonding
24 equipment. So is the bonding equipment being sold as part of
25 the sale?

1 MR. VAGNONI: Yes, Your Honor. It is. The problem
2 we have with the bonding equipment is there are disputes as to
3 who owns the bonding equipment.

4 THE COURT: Okay.

5 MR. VAGNONI: But what we believe is that either the
6 Debtor owns it and the Debtor did list the bonding equipment in
7 its Schedule B.

8 THE COURT: Uh-huh.

9 MR. VAGNONI: And the rest of the things in Schedule
10 B are office equipment and FF&E. But the Debtor alleges that
11 it owns it. There has been -- there has been allegations that
12 that bonding equipment was transferred to SeeCubic B.V. The
13 Debtor downstream, the Stream downstream subsidiary.

14 THE COURT: Transferred by whom? Who transferred it?

15 MR. VAGNONI: So and I can't speak to this directly
16 because I was not involved at the time, but it was my
17 understanding that at the time of the omnibus agreement that --
18 and correct me if I'm wrong, but that their allegation that
19 that -- that the bonding equipment was transferred by the
20 controlling entity -- by the Debtor to SeeCubic B.V. Whether
21 or not it's the Debtor's property or SeeCubic B.V.'s property,
22 that bonding equipment is being transferred.

23 THE COURT: Okay. All right. Just give me a minute
24 to go through all of this for one moment. Okay. So this is
25 how I would like to proceed. Before I sign off on any bid

1 procedure order, I'd like to see what the schedules are to the
2 purchase agreement. I just -- I think that we should put
3 together the schedule, but I don't think that you have the
4 schedule here today, right?

5 But what I envision is, since it does seem to be an
6 issue, what is being sold, I'd like someone to put together the
7 schedules and then I'd like you to -- and you could break it
8 out any way you want. Perhaps you could say that this entity,
9 you know, has these assets and that's what could be part of the
10 sale when you buy the equity of that entity.

11 And then what I'd like to do is I'd like to invite
12 VSI and Rembrandt to look at those schedules and to point out
13 the very many issues that I think that they're going to have
14 with those schedules as to potentially flag the issues that you
15 have with regard to each of those entities.

16 And then what I think we should do for any potential
17 bidder is they should see a list of the scheduled assets that
18 actually do have some asterisks to them, which might note there
19 were objections or concerns that you guys have to those assets,
20 right? So that whoever is, you know, potentially interested in
21 buying the assets will see your asterisk, right? And then
22 either we'll get them in as bidders or not. So I think the
23 first thing I'd like to do is I'd like to get that schedule
24 together --

25 MR. THOMPSON: Your Honor, if I may be heard just on

1 one of those asterisks because we just heard about the bonding
2 machine.

3 THE COURT: Uh-huh.

4 MR. THOMPSON: If you look at what the Trustee just
5 filed with respect to the bonding machine, it's got conditions
6 all over the place, right? And it is not guaranteeing --

7 THE COURT: Could you -- which one? Could you --

8 MR. THOMPSON: -- not guaranteeing the transfer right
9 to any buyer, right?

10 THE COURT: Okay.

11 MR. THOMPSON: So --

12 MR. GEORGE: But the buyer will know that.

13 MR. THOMPSON: Well, it would not have known that --

14 THE COURT: Okay. Could we just stop and just take a
15 moment that you're selling something that you may or may not
16 have. That just does seem a little curious.

17 MR. THOMPSON: Thank you, Your Honor.

18 THE COURT: Doesn't it seem a little curious?

19 MR. THOMPSON: That's precisely our --

20 MR. VAGNONI: Your Honor.

21 MR. THOMPSON: We may or may not be in possession of
22 it.

23 THE COURT: Okay. All right. Argument for the
24 Trustee. I just have to get an answer to the question why is
25 it not weird to say that you're going to sell something but

1 then not be sure if you're actually going to get it.

2 MR. THOMPSON: Your Honor --

3 THE COURT: I'd like to hear from the Trustee. I'm
4 sorry, I didn't mean you, I met the guy standing behind the
5 asterisk --

6 MR. HOMONY: Prior to my appointment, as you can tell
7 -- was a complete and utter disaster.

8 THE COURT: It still kind of seems like a disaster
9 which I'm trying to clean up. Yes.

10 MR. HOMONY: I want you to appreciate Stream used to
11 own the bond equipment --

12 THE COURT: Uh-huh.

13 MR. HOMONY: -- before the omnibus agreement which
14 set all this off.

15 THE COURT: Okay.

16 MR. HOMONY: At some point, we were informed that a
17 receiver -- again prior to my getting on the scene -- a
18 receiver was appointed to oversee Technovative in Delaware
19 District Court. I believe that receiver retitled the bonding
20 equipment into the Netherlands subsidiary --

21 THE COURT: Okay.

22 MR. HOMONY: -- the equity of which I'm selling --

23 THE COURT: Okay. Yeah.

24 MR. HOMONY: -- because it's in China, there's issues
25 with warehouse liens, past due rent.

1 THE COURT: But presumably that's something that's
2 being sold --

3 MR. HOMONY: It is being sold, Your Honor.

4 THE COURT: -- if you can get through -- if you can
5 jump through all those hurdles.

6 MR. HOMONY: It is being sold. But as I'm sure you
7 can appreciate in other cases, somebody's holding that asset
8 that might demand --

9 THE COURT: Okay. But that's okay.

10 MR. HOMONY: -- \$500,000.

11 THE COURT: That's okay. I mean --

12 MR. HOMONY: Before it gets --

13 THE COURT: So perhaps with regard to the bonding
14 equipment, there'll be a very long asterisk which will describe
15 exactly where it is and all the claims subject to it. And you
16 guys would be able to add something to that as well.

17 MR. THOMPSON: Your Honor, there's an omnibus order
18 -- an omnibus agreement that was overturned by the Delaware
19 Supreme Court. And thereafter there was a chancery court
20 opinion directing the return of all the equipment including
21 that.

22 THE COURT: Let me just tell you where I'm focused
23 at.

24 MR. THOMPSON: Okay.

25 THE COURT: Where I'm focused at is, I just want to

1 know what's being sold even if it's subject to a million
2 caveats, right? So we're going to work together and we're
3 going to come up with a schedule so at least a normal person
4 will at least know this is what's being sold.

5 Now, just based on my preliminary observation, I
6 don't believe anybody will be bidding for these asset because
7 you guys are hopping up and down. You really think that -- you
8 know, that it's your stuff that's going to fall on this
9 litigation. I just want to tell you what I think that the
10 logical conclusion of all of this is going to be. That if we
11 ever get to a sale, there will be no other bidders because
12 you'd have to be crazy to enter this like firestorm of like,
13 you know, litigation, right?

14 So what it's going to be is we're going to have Hawk,
15 who wants to be the buyer. They're the stalking horse bidder.
16 No one else is going to bid. And you guys are going to raise a
17 slew of objections to the sale, right? And if I have -- I have
18 Hawk, right, who's going to then say, you know, Your Honor, I'm
19 going to -- this is what I want to buy and I know that they're
20 hopping mad and they're going to sue me and that they're going
21 to -- they have all these, you know, issues or whatever.

22 And then at that point, if I approve the sale to them
23 that I'm delivering that to them, Hawk is going to pay them
24 whatever they're going to pay and then you guys, Hawk and you
25 guys are going to fight it out, right? And then I don't have

1 to resolve, right, exactly who owns what or whatever, because
2 they're going to be doing all of that, right? And then you can
3 engage in that fight. But all of your jumping up and down, it
4 does have a chilling effect on the bidding as well, right. It
5 will make it -- it will basically guarantee that Hawk will be
6 the buyer of these assets at the end of the day.

7 MR. THOMPSON: That's already been guaranteed, Your
8 Honor.

9 THE COURT: Okay.

10 MR. GEORGE: Your Honor, if I may. This is --

11 THE COURT: Yes.

12 MR. HOMONY: Your Honor, I can address --

13 MR. GEORGE: I would just like to --

14 THE COURT: Okay.

15 MR. HOMONY: This case has been drawn out for a long
16 time. And as I'm sure you can appreciate, Stream is a pre-
17 revenue company. It has no revenues, it has no ability to
18 generate loans. Part of the Hawk settlement provided that Hawk
19 through SeeCubic would continue to fund the Netherlands,
20 SeeCubic BV, which is an operating entity with real people
21 there who really care about this technology, have lived with it
22 for 20 years and want to see it commercialized.

23 The longer this goes, their livelihoods are put in
24 jeopardy. The value of these assets is put in jeopardy because
25 if I have an outside -- a date where they have agreed to fund,

1 which is December 10th. If the sale isn't closed by December
2 10th, there's no funding secured for those people in SeeCubic
3 BV, and not only their lives, but the value of these assets
4 will disappear.

5 Right now, through the carveout I think my and my
6 team have managed to secure between 9- and \$10 million in cash
7 for the benefit of unsecured creditors, which would otherwise
8 vanish. And so I just -- I want everybody in this room to
9 appreciate --

10 THE COURT: Yes. I get it.

11 MR. HOMONY: Okay.

12 THE COURT: I understand.

13 MR. HOMONY: Thank you, Your Honor.

14 THE COURT: Thank you. Okay. Hold on one second. I
15 don't want to hear from anyone right now. Okay.

16 So Mr. Vagnoni, when -- and you can talk to your
17 colleagues here, but when do you think you could put together a
18 schedule of what be -- I mean, if this is going to be going out
19 for bidders, we need to have like a schedule. So when would
20 you be able to put together some schedules?

21 MR. VAGNONI: We'd have to do it -- I do have to
22 speak with -- but we have to do it immediately.

23 THE COURT: Why don't you talk to your people and
24 tell me how soon you could get those schedules together? Go
25 talk to them.

1 MR. VAGNONI: Thank you, Your Honor.

2 THE COURT: You're welcome. So while they're doing
3 that, I didn't realize the whole room was empty. Perhaps what
4 we'll do is while they're doing that can I just run through the
5 rest of my list because I have a 12:30 list as well. So I'm
6 just going to -- you can keep all your stuff here. Keep all
7 your stuff here. I'm just going to run through my 11:00 list.
8 Oh, with the other parties. Yeah. Yeah. But so just sit
9 tight.

10 Pam, what else do we have going on at 11:00?

11 THE CLERK: 11 should be all --

12 THE COURT: Oh, good. Excellent. Okay. Good. So
13 hold tight right there. So I just want to take a short break
14 and I'll be right back.

15 THE CLERK: Okay.

16 (Recess)

17 THE CLERK: Court is back in session.

18 THE COURT: All right. Mr. Vagnoni, when do you
19 think you'll have those schedules for me?

20 MR. VAGNONI: We can have them filed by tomorrow.

21 THE COURT: Okay. Great. So what I would like is --
22 what I envision is that there will be schedules identifying
23 what the assets are. And I think that for instance, with the
24 bonding equipment, you should drop an asterisk that says, you
25 know, we are actually not in possession of the bonding

1 equipment and whatever caveats you think there may be to
2 actually a buyer taking possession of them. I think you should
3 add that to that.

4 MR. VAGNONI: Absolutely. And Your Honor, just to be
5 clear, you know, with the foreign subsidiaries, the Trustee
6 isn't in possession of those assets either, but they are in the
7 possession of subsidiaries of --

8 THE COURT: Okay. So you should just -- I just want
9 this to be clearly laid out where everything is. So if someone
10 were to look at this, they understand these are the issues that
11 I face if I put in a bid.

12 MR. VAGNONI: Understood.

13 THE COURT: Okay. Then I'd like you guys to take a
14 look at the schedules because before it goes out to other
15 potential bidders, I'd like to get your input. And I think
16 that you have lots of different issues like, you know, you
17 could say that, you know, these assets are subject to our
18 claims and put whatever, you know, statements in there that you
19 think would be appropriate.

20 And I think just to be clear that, you know, if you
21 have an asterisk, you know, you might have an asterisk saying
22 these are the Debtors comments about, you know, like maybe just
23 say a footnote, why don't you have a footnote, right? You put
24 a footnote and you say this is debtor's position that these
25 assets are not in our possession or whatever. Put whatever

1 caveat.

2 And then we're also going to have footnotes with you
3 guys and you're going to -- so the potential bidder will know
4 that the statements that are being made with regard to your
5 footnotes are your comments and are not the Debtor's comments,
6 right? And you -- I'm willing to include that just because I
7 think that you have some serious concerns and people should
8 know them. So it would say something like Rembrandt believes
9 that with regard to these assets, that there are these issues
10 implicated on intellectual properties embedded in them and, you
11 know, this is going to spawn litigation or whatever. Yes?

12 MR. MICHAELS: I think the main issue here, I think
13 it's been handled by Whitehall and it was a jeweler who had
14 taken in property on -- jewels on consignment, embedded them in
15 rings and wanted to go to a bankruptcy sale where they just
16 sold it all off subject to the rights of the vendors who had
17 given them tools on consignment. And I think it was somewhere
18 in the neighborhood of 193 adversary proceedings would have
19 been necessary.

20 And the court said tough. You need to figure out
21 what the assets of the estate are and you need to have those
22 adversary proceedings by trying to go forward. And it is -- I
23 understand the Court's desire to move through a process, but
24 saying with an asterisk Rembrandt may or may not sue you for IP
25 infringement is the courts have determined that's not an

1 acceptable process. It is in and of itself subjecting the
2 estate to additional liability for making that transfer in the
3 first place which was not authorized --

4 THE COURT: Okay. Would you not want me to add your
5 comments to the schedule?

6 MR. MICHAELS: We would like -- we would certainly
7 like the ability to enter the comments, but we -- what we
8 believe is necessary in this situation is to ascertain what are
9 actually the assets of the estate, and what else is on the
10 record.

11 THE COURT: Okay. So let me tell you my skepticism
12 with that comment. With respect to the client, the guy that he
13 used to be. This -- the guy who was replaced by the Trustee.
14 He had a pretty good idea of what's in all of these entities,
15 because up until, you know, earlier this year, wasn't he in
16 control of all those assets? Okay. Well, regardless, this is
17 we're going to do.

18 You've got litigation issues with regard to the
19 license, and I'm going to look at that because you're going to
20 file a sale objection and it's going to lay out every single
21 objection you have to the sale and they are going to respond to
22 that and I am going to address all of those arguments, okay?
23 So this is what we're going to do. You guys, you can add
24 footnotes and all I care about your footnotes is that you put
25 in the preamble of whatever footnotes you want to add to the

1 schedule that these are comments made on your behalf, not on
2 the Debtor's behalf so that people who read it understand it.

3 MR. MICHAELS: We do have one request --

4 THE COURT: Yeah.

5 MR. MICHAELS: -- that we've been making for a while
6 now.

7 THE COURT: Yeah.

8 MR. MICHAELS: And that is that the Trustee specify
9 with particularity, whether he is relying on the Rembrandt
10 license or not.

11 THE COURT: What do you mean you're relying upon the
12 Rembrandt license?

13 MR. MICHAELS: If they are offering for sale assets
14 Rembrandt has alleged have -- are covered by patent inventions,
15 we have the right to bring suit against anybody who is offering
16 those for sale.

17 THE COURT: I don't think that Mr. Vagnoni thinks
18 that you have the right to sue them. Do you -- Mr. Vagnoni, do
19 you think that they have the right to sue you arising out of
20 the sale of the assets that --

21 MR. VAGNONI: Absolutely not.

22 THE COURT: See so they just disagree. That's just a
23 sale -- that's a sale argument that you can make in front of me
24 that I'll consider.

25 MR. MICHAELS: With respect, we provided the case law

1 that says we do not need leave of this Court. We can file in
2 any jurisdiction and SSG is not a part of this bankruptcy. I
3 mean, I appreciate they're professional, but they're actively
4 offering our patented technology for sale. That's an
5 infringement under 35 USC. And it's the only --

6 THE COURT: I disagree.

7 MR. MICHAELS: -- defense to that because --

8 THE COURT: So you're sitting here and you're making
9 an argument and they just disagree with the argument. And I'm
10 going to consider it. Don't include it in your brief because
11 it's a sale objection, right? You're going to say, Judge, you
12 don't have the authority to do this. No one should be selling
13 this, right. You're going to tell me that and I'm going to
14 look at your case law and your legal argument and I'm going to
15 look at theirs and then I will give you a decision on that.

16 MR. MICHAELS: I respect what you're saying about
17 with regard to the sale process.

18 THE COURT: Uh-huh.

19 MR. MICHAELS: My question is different than that, is
20 we -- Rembrandt has the ability to go after SSG today in a
21 different court for patent infringement unless the Trustee is
22 claiming that they are covered by a valid, current, paid up
23 license with Rembrandt. And I'm asking the Trustee to clarify.
24 Are they saying that they have -- that Stream has a valid paid
25 up license with Rembrandt?

1 THE COURT: Your response, Mr. Vagnoni?

2 MR. VAGNONI: It sounds like he's asking me to
3 testify under threat of suit of the Trustee's professionals.

4 THE COURT: Okay. Well, in any case, I would like to
5 have any footnotes that you want to add to the schedules by,
6 let's say Wednesday. So on Friday, if you could just put
7 together whatever footnotes that you want, just tell them,
8 like, do a black line, right? And then send them a black line
9 of the schedules.

10 But let's talk about the scheduling here, right? So
11 I know you're telling me, Hawk, that you have to have this, you
12 know, this all is done by the 10th. But I need to have, you
13 know, the schedules nailed down so that a potential bidder
14 would know exactly what they're buying. So we need to get that
15 done first. I can't -- we can't send this out for bidding
16 until that's done.

17 So once the schedules are done on Friday because
18 they're going to give you their comments by just say Friday
19 morning at 9 a.m., right? So you -- did you say tomorrow
20 you're going to get them? So what time tomorrow do we have the
21 schedule?

22 MR. VAGNONI: Yeah, by afternoon.

23 THE COURT: In the afternoon?

24 MR. VAGNONI: And look, if we can get them in today,
25 we're going to get them in today.

1 THE COURT: Okay.

2 MR. VAGNONI: But we would like to have a week until
3 tomorrow and we're going to do it as soon as we possibly can.

4 THE COURT: Okay. So then Friday by 5 p.m. I'd like
5 you to hand your black line of what the schedule looks like
6 back to them, okay. So that they can attach that to the
7 purchase agreement. Yes?

8 MR. SWICK: Well, we have 48 -- like Monday by 5:00?
9 Like I have to fly home tonight, so I don't know whether it
10 will be tomorrow, that's Thursday. So --

11 MR. VAGNONI: We're not going to be here until
12 tomorrow.

13 MR. SWICK: It might be quite voluminous. Like I'm
14 not sure what they're going to --

15 THE COURT: Okay. That's fine. You can have until
16 Monday, just to send out -- to add the footnote. So let's say
17 by Monday 9:00 a.m. you're going to get them your footnotes to
18 the schedules. Now, so on Monday, you guys are going to have
19 the schedules, right? And you already presumably have your
20 asset purchase agreement.

21 So let's just talk about the bidding procedure. Oh,
22 also the data room. They've got some serious concerns about
23 what's in the data room. So by the time that this goes live
24 and we send this out for people to bid on or show interest,
25 what's going on with the data room? And can you make sure you

1 populate it with actual, like, information? Who's -- when do
2 you -- okay. So when do you think -- come on up, Mr. Victor.
3 When will the data room actually be sold with things that are
4 clear about what's being sold?

5 MR. VICTOR: Good afternoon, Your Honor. Scott
6 Victor for SSG. The data room is full. The data room has been
7 accessed by one party; VSI, who is made up of all the insiders
8 of the Debtor.

9 THE COURT: Okay. Let's just focus on what's in the
10 data room. So is there--

11 MR. VICTOR: The data room is fully set up. And has
12 been for over a month.

13 THE COURT: Okay. Because they said there was
14 missing information in the data room. Is it possible that they
15 looked at the data room before it was 100 percent complete?

16 MR. VICTOR: They looked at it after it was 100
17 percent.

18 THE COURT: Okay.

19 MR. VICTOR: And they will complain about anything at
20 any time to stall the process. There's nothing wrong with the
21 data room.

22 THE COURT: Okay. So you think that there's -- so
23 everything in the data room is there that would be. So --

24 MR. VICTOR: Yes.

25 THE COURT: -- yeah.

1 MR. VICTOR: But, Your Honor.

2 THE COURT: Yeah.

3 MR. VICTOR: Not one single party has signed an NDA
4 other than an insider of the Debtors and has requested access
5 to the data room.

6 THE COURT: I understand. This is going to be a very
7 short period. I understand. Yeah. I'm aware of that. Okay.
8 It's your position is that the data room has everything --

9 MR. VICTOR: The data room is fully complete --

10 THE COURT: Okay.

11 MR. VICTOR: -- and needs nothing further. We
12 understand that it is appropriate to file schedules to the APA
13 like in every other case. That will be done tomorrow. We'll
14 have until Monday to black line it and add their asterisks.
15 But I have to put on the record that in my 41 years of
16 experience, I've never been threatened by counsel as many times
17 that we've been threatened by Rembrandt.

18 Who are they to sue SSG? My employees who are
19 working on this, we're not selling their intellectual property.
20 We're not infringing on their patent rights. We're selling the
21 equity of subsidiaries that may or may not have any
22 intellectual property that may or may not belong or rightfully
23 be licensed by Rembrandt. So I take complete offense to that.

24 THE COURT: Understood.

25 MR. THOMPSON: Your Honor, I just might say though

1 that the Trustee of course, has a responsibility to make sure
2 that everything that he is attempting to sell below the --

3 MR. VICTOR: Your Honor, the people --

4 MR. THOMPSON: Excuse me.

5 MR. VICTOR: -- and its subsidiaries --

6 THE COURT: Let him finish his statement, Mr. Victor.
7 Go ahead.

8 MR. THOMPSON: All of the assets that the Trustee is
9 purporting to sell, have full disclosure with regards to those
10 assets. And I think the point that Rembrandt has been making is
11 that disclosure has been incomplete to date. I understand that
12 Mr. Victor suggests that everything is in the data room and
13 therefore any reasonable bidder could make a determination as
14 to what exposure they may or may not have. We would argue that
15 is incorrect.

16 THE COURT: Okay. Thank you.

17 I understand, Mr. Victor.

18 MR. VICTOR: Thank you, Your Honor.

19 THE COURT: You're welcome. Okay.

20 So Mr. Vagnoni, let's just talk about some deadlines,
21 okay? So we have to pick a date for a sale hearing. We have
22 to pick a date for a sale objection deadline. And I'd also
23 like to get any replies by the Debtor to any objections.

24 MR. VAGNONI: Well --

25 THE COURT: All right. So we should also start with

1 like the bid deadline, okay. So you're saying that -- so the
2 big deadline right now you're suggesting is the 18th, but
3 that's in like five days and we don't even have the schedules.
4 We don't have them. So I don't think we need a long time
5 because I think that we could all agree that given everything
6 I've heard today, I highly doubt anyone is going to be placing
7 a bid, but you know, we should still put it out there for at
8 least a couple weeks to see if you're going to generate any
9 bids, okay.

10 So let's look at the calendar here. All right. So
11 presumably you'll have the final form of the schedule on the
12 18th. So I think that we could get -- we can have a bid
13 deadline be December 2nd. December 2nd. And then that means
14 -- well, I'm sorry. Yeah. December 2nd and then we could have
15 an auction on the 3rd. You guys are going to do that in your
16 offices, right?

17 MR. GEORGE: If one is required.

18 THE COURT: If one is required. All right. And so
19 then after that, we just need to -- we need to decide when
20 we're going to have the sale hearing.

21 MR. VAGNONI: Your Honor.

22 THE COURT: Yes?

23 MR. VAGNONI: We have a sale closing deadline of
24 December 10th. We're going to -- this is extremely tight with
25 those --

1 THE COURT: I'm going to give you -- I mean, let me
2 just look at the schedule here. Okay. So the 10th is a
3 Tuesday. All right. Okay. So I think what we should do is we
4 should have the sale hearing on -- I think we should have it on
5 the 10th of December. Okay. And I'll give you a ruling on the
6 10th because we're going to back into that all the objections
7 for when people are going to file objections to the sale.

8 MR. VAGNONI: Okay. Your Honor, that's going to put
9 us out of the agreement we have with Hawk.

10 THE COURT: Okay. So Hawk, I'm looking at my
11 schedule and I'm trying to give you a hearing as soon as I can,
12 and I'm -- you know, they're the ones who gave you the deadline
13 of December 10th, is that right?

14 MR. VAGNONI: It was -- yeah, Hawk and SeeCubic.
15 Yeah.

16 THE COURT: Yeah. Okay. So I'm trying to work with
17 you guys here, but I'm not going to be able to have a hearing
18 in the first week of December because I think we have a lot
19 going on then. I mean, I guess we could try to have it on the
20 4th.

21 (Court and clerk confer)

22 THE COURT: So I think what we should do then let's
23 have a sale hearing on the 4th of December at 1:00 p.m. And
24 we'll make a sale objection deadline next Friday the 22nd, and
25 any responses to the objection should be filed by the 29th.

1 The deadline again is the 2nd, the auction is the 3rd. We'll
2 have the hearing on the 4th.

3 MR. THOMPSON: Well, Your Honor.

4 THE COURT: Yeah.

5 MR. THOMPSON: Your Honor, I would only make two
6 observations, right? One, first that it's pretty clear that
7 Rome is not burning. Notwithstanding protestations to the
8 contrary. And we once again see the accommodation of the Hawk
9 parties even with regards to scheduling on something that was
10 completely within their control in terms of providing -- the
11 Trustee providing this list of assets well before now.

12 And frankly having other potential bidders have
13 access to this information in the data room. It is
14 regrettable, although not too terribly unforeseeable that
15 nobody else was interested, given the information that they
16 would have and the concerns that any probable bidder would have
17 given what they know and what the risks probably are.

18 But beyond that, I just want the record to reflect
19 that there seems to be some suggestion that all VSI has done
20 throughout this process has been an obstructor. We have tried
21 multiple times to provide alternative financing, in the way of
22 DIP financing to proposals. And I am aware of Rembrandt having
23 made a proposal before that.

24 Mr. Vagnoni, during our hearing suggested that none
25 of those things were acceptable. All of them -- I will

1 contend, Your Honor, all of them, each and every one was better
2 than the outcome that this trustee has decided is the only
3 track he can go down.

4 THE COURT: I have one question. Where is Phillips
5 in all this litigation?

6 MR. GEORGE: Ready to cancel the --

7 THE COURT: Excuse me?

8 MR. GEORGE: Probably about ready to cancel the
9 license.

10 MR. VAGNONI: Probably. Your Honor --

11 THE COURT: Where are they? Like I haven't seen
12 them. Like you're jumping up and down, but where's Phillips?

13 MR. GEORGE: I spoken to Alex Damvelt if you'd like
14 to hear about that. And I've spoken to Phillips as well.

15 MR. VAGNONI: Your Honor, he's testified -- he's
16 testified enough. Your Honor, the proposals that we received
17 -- and I don't want to prolong this anymore. I know Your Honor
18 has made a ruling on dates. The proposals that the Trustee has
19 received so far are from the same individual who found it has
20 grossly mismanaged the Debtor's --

21 THE COURT: Mr. Vagnoni, I'm giving you everything
22 you want.

23 MR. VAGNONI: I agree.

24 THE COURT: I'm moving forward with the bid
25 procedure, and --

1 MR. VAGNONI: And I acknowledge that.

2 THE COURT: Okay.

3 MR. VAGNONI: And I thank you. But to sit here and
4 listen to --

5 THE COURT: There's zealous advocates --

6 MR. THOMPSON: I'm going to object to this line --

7 THE COURT: -- being paid to be --

8 MR. THOMPSON: -- to this line of -- I'm going to
9 object.

10 THE COURT: Everybody. So Mr. Vagnoni, I don't need
11 to hear anything more from anybody.

12 MR. VAGNONI: Thank you, Your Honor.

13 THE COURT: Okay. So I'll hear from all of you.

14 Just make sure you put in those briefs. My law clerk is
15 waiting with baited breath to see all of your sale objections
16 because he's got to do a lot of research. So next Friday,
17 okay. We'll be taking a close look at all of that. So please
18 include all of your arguments then. Okay, everybody. I will --

19 MR. THOMPSON: Thank you, Your Honor.

20 MR. VAGNONI: Thank you, Your Honor.

21 THE COURT: All right. Thank you. I have a 12:30
22 hearing. Don't need to stand for me. Okay.

23 (Proceedings adjourned at 12:47 p.m.)
24
25

C E R T I F I C A T E

I hereby certify that the foregoing is a true and correct transcript from the electronic sound recording of the proceedings in the above-entitled matter.

John Buckley

John Buckley, CET-623
Digital Court Proofreader

EXHIBIT D

**UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

In re:

Stream TV Networks, Inc., *et al.*¹

The Debtors.

Chapter 11

Bky. Case No. 23-10763 (AMC)
(Jointly Administered)

**DECLARATION OF CHARLES M. ROBERTSON IN SUPPORT OF VISUAL
SEMICONDUCTOR, INC.’S OBJECTION TO MOTION OF WILLIAM A. HOMONY IN
HIS CAPACITY AS CHAPTER 11 TRUSTEE FOR AN ORDER APPROVING
(A) THE SALE OF THE DEBTOR’S ASSETS FREE AND CLEAR OF ALL LIENS,
CLAIMS, ENCUMBRANCES, AND OTHER INTERESTS, (B) APPROVING THE
ASSUMPTION AND ASSIGNMENT OF CERTAIN EXECUTORY CONTRACTS AND
UNEXPIRED LEASES RELATED THERETO AND (C) GRANTING RELATED RELIEF**

I, Charles M. Robertson, hereby declare under penalty of perjury:

1. My legal name is Charles M. Robertson, but professionally I am known by the nickname Bud Robertson. I was employed by Stream TV Networks, Inc. (“Stream”), a debtor in the above captioned Chapter 11 bankruptcy case, as Vice President of Business Development from shortly after its formation in 2009. From approximately May 2018 through December 2020, I served as Executive Vice President and was closely involved with Stream’s global operations and business development. From January 2021 through December 2023, I provided full-time executive consulting services to Stream as an independent contractor, and from the appointment of William A. Homony in his capacity as chapter 11 trustee for Stream (the “Trustee”) in January 2024 until the present, I have provided contract services to Stream on an occasional basis.

¹ The Debtors, together with the last four digits of the Debtors’ federal tax identification numbers, are Stream TV Networks, Inc. (4092) and Technovative Media, Inc. (5015). The location of the Debtors’ service address is: 2009 Chestnut Street, 3rd Floor, Philadelphia, PA 19103.

2. From May 2018 until December 2020, I also served as Chief Executive Officer of Stream's R&D subsidiary in the Netherlands, SeeCubic, B.V. ("SCBV"). I resigned that position shortly after ownership of SCBV was ceded to SeeCubic, Inc. ("SeeCubic") pursuant to an improvident injunction issued by the Delaware Court of Chancery. During that time, I became quite familiar with all operational aspects of SCBV.

3. For most of 2024, I have provided executive consulting services to Visual Semiconductor, Inc. ("VSI"), assisting in its efforts to develop a Plan of Reorganization that will enable Stream to successfully reorganize and exit the bankruptcy.

4. Except as otherwise indicated, all facts set forth herein are based upon my personal knowledge of the Debtors, personal experiences and interactions, and information learned from my review of relevant documents. If called upon, I can and will testify competently to the facts set forth herein.

5. I submit this declaration in connection with *Visual Semiconductor Inc.'s Objection to Motion of William A. Homony in his Capacity as Chapter 11 Trustee for an Order Approving (A) the Sale of the Debtors' Assets Free and Clear of All Liens, Claims, Encumbrances, and other Interests, (B) Approving the Assumption and Assignment of Certain Executory Contracts and Unexpired Leases, and (C) Granting Related Relief.*

Preliminary Statement

6. I have been intimately involved with virtually all aspects of litigation and operations involving Stream from the time a settlement agreement (the "Omnibus Agreement")² purported to transfer Stream's assets (the "Assets") to SeeCubic in May 2020 until the appointment of the Trustee in January 2024. Since the time of the Trustee's appointment, I have closely followed

² ECF 48, Exhibit O

all filings and hearings in this Bankruptcy Case, I have testified in the Adversary Case, and I have been intimately involved with VSI's efforts to develop a Bankruptcy Plan of Reorganization for the benefit of Stream and all its creditors.

7. From May 2020 to the present, SeeCubic has (a) obtained Stream's assets pursuant to an improvident preliminary injunction; (b) retained possession of Stream's assets despite numerous court orders mandating their return; (c) taken post-petition legal action in the Netherlands to seize control of Stream's Dutch subsidiaries which conduct Stream's R&D activities and own its intellectual property; and (d) used the Assets for its own benefit despite a Bankruptcy Court Temporary Restraining Order enjoining it from doing so.

8. What follows is a detailed chronology of how the Assets were stripped from the Debtors, wrongfully retained by SeeCubic (the Stalking Horse in the proposed 363 Sale), and used by SeeCubic in violation of the standing TRO.

General Pre-Petition Timeline Pertaining to the Debtors' Assets

9. As of January 2020, Stream owed \$6 million plus interest to its senior secured lender, SLS Holdings VI, LLC ("SLS") whose managing member is Shadron L. Stastney ("Stastney"). As a benefit afforded to him because of the convertible loans provided by SLS (the "SLS Convertible Notes"), Stastney served on Stream's Board of Directors. Elevated to Vice Chairman of the Board and appointed Chief Financial Officer in 2018, Stastney was a true insider of Stream.

10. On January 30, 2020, Stastney resigned his positions at Stream and announced his intention to serve a default notice to Stream and pursue a foreclosure action on the Assets, which had been pledged by Stream as security for the SLS Convertible Notes. The Assets included 100%

of the stock shares of Technovative Media, Inc. (“Technovative”), which directly or indirectly owned all of Stream’s subsidiary entities.

11. Stastney filed a foreclosure action in the Delaware Superior Court on March 23, 2020³. Stream subsequently filed its answer, affirmative defenses, and counterclaims. The Superior Court set a preliminary hearing for June 2021, approximately 14 months later.

12. Although the foreclosure action in Superior Court had not yet been adjudicated, Stastney began an immediate campaign of declaring that Stream was in foreclosure and that the Assets belonged to SLS. One target of his misinformation campaign was MotivIT, a vendor that housed Stream’s computer servers and the intellectual property stored on them (the Ultra-D™ technology, or “Ultra-D”). Instructed by Stastney to hold the servers for the benefit of SLS⁴ and take direction only from SLS, MotivIT subsequently blocked Stream’s rightful access to its own hardware and computer source code.

13. In a meeting on May 4, 2020, Stream’s newly expanded board of directors voted to establish a Resolution Committee consisting solely of two new directors – Kevin Gollop (“Gollop”) and Asaf Gola (“Gola”) – to settle Stream’s debt with SLS and its junior secured lender, Hawk Investment Holdings Limited (“Hawk”). Two days later, on May 6, 2020, Gollop and Gola signed the Omnibus Agreement, which purported to transfer all Assets to a “newco” (SeeCubic) as satisfaction of the debts and settlement of ongoing litigation.

14. Stream management immediately challenged the validity of the Omnibus Agreement, which had been signed by directors but not ratified by Class B Voting Shareholders as required by Stream’s charter. Stream took subsequent corporate action to discharge the directors who had formed the Resolution Committee and executed the Omnibus Agreement.

³ C.A. No. N20C-03-225 MMJ CCLD

⁴ Stastney email of March 12, 2020 to MotivIT

15. SeeCubic was founded as a Delaware corporation on May 20, 2020 to receive the Assets. Despite Stream's objections to the validity of the Omnibus Agreement, SeeCubic began seizing Stream assets wherever and however possible. On the title page of its June 2, 2020 private placement memorandum, SeeCubic declared itself "Owner of the brand Ultra-D."⁵

16. Despite being removed from their directorships in May 2020, Gola and Gollop continued to represent themselves as directors of Stream. On August 24, 2020, using Stream's letterhead, they signed a Delegation of Authority Letter⁶ which purported to give a third-party power of attorney to represent some of Stream's subsidiaries for the purpose of assuming the facility lease and taking possession of Stream's valuable, proprietary optical bonding equipment (the "Bonding Equipment").

17. Upon learning that SeeCubic representatives were attempting to seize its multi-million-dollar Bonding Equipment in China, Stream filed for injunctive relief in the Delaware Court of Chancery on September 8, 2020⁷. SeeCubic filed a counterclaim a week later, seeking validation and enforcement of the Omnibus Agreement.

18. After 3 months of discovery, briefings, and hearings, the Chancery Court issued an improvident⁸ Preliminary Injunction on December 8, 2020 which awarded all of Stream's assets to SeeCubic pending final adjudication of the competing motions. Stream was ordered to surrender its ownership of all subsidiaries, its intellectual property, its Bonding Equipment, its trademarks, its business computers and data (including email), its bank accounts, and even the right to conduct business under the Stream name.

⁵ ECF 48, Exhibit Q

⁶ ECF 48, Exhibit S

⁷ C.A. No. 2020-0766-JTL

⁸ The Preliminary Injunction (ECF 48, Exhibits U and V) and the Partial Final Judgment (ECF 48, Exhibit X) which followed were subsequently overturned by the Delaware Supreme Court on June 15, 2022 (ECF 48, Exhibit Y).

19. With more than \$18 million in unsecured debt and few remaining assets with which to service that debt, Stream filed for chapter 11 Bankruptcy protection on February 24, 2021⁹. Stream sought turnover of estate property and rejection of the Omnibus Agreement as an executory contract since the Assets had not yet been fully transferred and since SeeCubic had not yet made payment to Stream through issuance of SeeCubic stock shares. However, the Bankruptcy Court gave deference to the Chancery Court injunction (even though it was preliminary) and dismissed Stream's Bankruptcy case as a bad faith filing on May 17, 2021.

20. On November 10, 2021, the Chancery Court issued a Partial Final Judgment¹⁰ finding the Omnibus Agreement valid and the Asset transfers to SeeCubic justified.

21. On December 21, 2021, Stream appealed the Chancery Court ruling to the Delaware Supreme Court¹¹. The case was heard on April 6, 2022, and on June 15, 2022, the high court – sitting *en banc* – issued a unanimous 5-0 Opinion¹² that REVERSED and VACATED the lower court ruling and REMANDED the case to the Chancery Court to unwind the damage that had been done to Stream. On July 1, 2022, the Delaware Supreme Court issued its corresponding Mandate¹³ to the Chancery Court.

22. The same day the Mandate was issued, Stream filed a Motion for Entry of Final Order and Judgment Consistent with the Mandate. After suffering for two years from the hostile takeover and improvident injunction, Stream simply wanted control and possession of the Assets once again so it could resume business.

⁹ U.S. Bankruptcy Court for the District of Delaware, Case No. 21-10433 (KBO)

¹⁰ ECF 48, Exhibit X

¹¹ Delaware Supreme Court, No. 360, 2021

¹² ECF 48, Exhibit Y

¹³ ECF 48, Exhibit Z

23. Despite the Delaware Supreme Court ruling, SeeCubic failed to return the Assets. On July 31, 2022, SeeCubic informed Stream that (a) it intended to sell the Assets rather than return them as mandated and (b) it was in the process of engaging an investment banker (later identified as SSG Advisors, LLC (“SSG”)) to market and sell the Assets on behalf of Hawk, which was acting as collateral agent for SeeCubic.

24. On August 1, 2022, Stream requested a Temporary Restraining Order against Hawk and SeeCubic to prevent the sale of the Assets. On August 9, 2022, nearly 8 weeks after the Delaware Supreme Court Opinion, the Chancery Court issued a TRO enjoining SeeCubic¹⁴. Vice Chancellor Laster specifically stated his expectations:

SeeCubic will restore Stream’s assets to Stream in accordance with the Rule 54(b) order. Once this has occurred, SeeCubic may seek to exercise any creditor’s rights it possesses against Stream. **SeeCubic must do so based on a status quo where Stream has title to and possession of its assets, not a status quo in which SeeCubic acquired possession based on a decision that the Delaware Supreme Court has held is erroneous.**

25. On August 10, 2022, the Chancery Court issued an Order Granting Partial Final Judgment¹⁵ in favor of Stream. The order stated:

Pending transfer of the Assets from SeeCubic to Stream, **SeeCubic and all those acting in concert with it shall not use, impair, encumber, or transfer the Assets**, except as necessary to maintain the Assets in the ordinary course of business and preserve their value pending transfer to Stream.

26. Following the Partial Final Judgment Order of the Chancery Court, SeeCubic finally began returning limited assets, most of which had little value to Stream’s business: outdated demonstrators with expired credentials, certain website domains (but not all), select email archives (but not all), a copy of computer source code but not the servers and master code itself, and some inventory of 4K-resolution Ultra-D displays manufactured in 2016-2017. Stream repeatedly

¹⁴ ECF 48, Exhibit AA (emphasis added)

¹⁵ ECF 48, Exhibit BB (emphasis added)

provided a significant list of unreturned assets to SeeCubic, but these efforts were futile. A non-comprehensive list of assets withheld by SeeCubic includes:

- a. 8K-resolution and other advanced Ultra-D technology demonstrators
- b. Optical bonding equipment for mass production
- c. Silicon Valley computer servers and source code/intellectual property
- d. Business computers, business data, and email archives
- e. Administrative control of key business websites

27. Notably, SeeCubic argued that it had paid the balance due on Stream's Silicon Valley computer servers, and thus, the hardware belonged to them. Vice Chancellor Laster allowed SeeCubic to maintain possession of the servers (and the intellectual property stored on them), ordering only that SeeCubic allow Stream to make a copy of the computer code. The Court did not require SeeCubic to delete the data or provide proof thereof; it simply allowed SeeCubic to maintain possession of Stream's IP in contravention of the Delaware Supreme Court Mandate.

28. While returning assets of marginal value such as 6-year-old inventory and outdated desktop computers with expired software, SeeCubic continued to argue that other key assets had been "improved" while under SeeCubic control and therefore should not have to be returned to Stream. It also argued that sorting "legacy" assets from "improved" assets would be a difficult or impossible task. The Chancery Court considered these arguments and issued an Opinion on September 28, 2022¹⁶ which stated:

Hawk and SeeCubic have argued that SeeCubic holds some assets that are Disputed Assets, either because they are not Legacy Stream Assets, or because they are not easily segregated from Legacy Stream Assets. SeeCubic's claims on this point seem somewhat exaggerated. In any event, **in light of the Mandate, the more important consideration is to require SeeCubic to return Stream's assets expeditiously.** (9/28/22 *Opinion* at p. 7)

As a result of the Mandate, Stream has equitable title to the Legacy Stream Assets. **With that equitable ownership interest comes the right to use the Legacy Stream Assets to conduct business and make efforts to satisfy the claims of**

¹⁶ 9/28/22 Chancery Court Opinion (*See* Exhibit A, emphasis added)

Hawk and Stream's other creditors. If Stream does not get the Legacy Stream Assets back, Stream will lose that opportunity forever. Stream therefore faces a threat of irreparable harm. (*id* at p. 8)

SeeCubic also faces a degree of harm because it has been running a business using the Legacy Stream Assets for the past eighteen months. As a result of the Supreme Court Decision, however, **SeeCubic currently has no equitable right to carry on that business.** SeeCubic's interests currently are derivative of Hawk's, and Hawk's only interest is that of a creditor. (*id* at pp 8-9)

29. The Chancery Court recognized that the most expeditious way for SeeCubic to return the bulk of the Assets would be through the transfer of Technovative stock shares:

The parties' submissions make clear that there is a comparatively easy means of transferring the vast bulk of the Legacy Stream Assets from SeeCubic to Stream. That outcome can be achieved by causing SeeCubic to transfer to Stream the equity in what had been Stream's principal operating subsidiary, Technovative Media, Inc. SeeCubic exercised its rights under the Omnibus Agreement through a similar transfer, and it makes sense to unwind that action by reversing that transfer. There will be follow-on issues to resolve, but the transfer offers a means of substantially implementing the Mandate in a single step. (*id* at p. 7)

30. Finally, on September 30, 2022, the Chancery Court issued a Mandatory Injunction Order¹⁷ in which SeeCubic was enjoined from the following:

- SeeCubic may not use the Server Information [Stream's proprietary computer code] for any purpose other than pursuing a claim, including for any business purpose.
- SeeCubic may not use information relating to the Sample Displays for any other purpose, including for any business purpose.
- SeeCubic may not use information relating to the Bonding Equipment for any other purpose, including for any business purpose.
- SeeCubic may not use the documentation relating to the [3D] Lenses for any other purpose, including for any business purpose.
- As an adjunct to the mandatory relief set forth in this order, SeeCubic and any persons acting in concert with it are prohibited from taking any steps to interfere with Stream's ability to recover the Sample Displays, the Bonding Equipment, the Server Information, or the Lenses...

The 9/30/22 Injunction Order further stated:

¹⁷ 9/30/22 Chancery Court Mandatory Injunction Order (*See* Exhibit B)

- SeeCubic appears to contend that the Bonding Equipment is a Disputed Asset because SeeCubic satisfied Stream's debt to the landlord who owned the premises where the bonding equipment was housed after Stream abandoned the premises and failed to pay rent. SeeCubic can seek to recover the Bonding Equipment or the incremental value that SeeCubic conferred through its general claim for unjust enrichment or through a specific claim based on the Bonding Equipment. In light of the Mandate, the first priority is to return the Bonding Equipment to Stream.
- SeeCubic shall return the Bonding Equipment to Stream within ten days.

31. On September 30, 2022, SeeCubic transferred the Technovative shares to Stream but coordinated with Hawk for a simultaneous execution of proxy rights that Hawk purported to have as a creditor. Hawk issued asset marshalling orders and appointed Stastney as the sole director of Technovative in furtherance of its goal to sell the Assets.

32. In response to Stream's Emergency Motion for Post-Judgment Enforcement, on October 3, 2022, the Chancery Court issued an Order mandating the surrender of Technovative shares to Stream and an Opinion¹⁸ finding Stastney, SeeCubic, and Hawk in contempt:

This decision holds that SeeCubic and Hawk engaged in contumacious conduct. Shad L. Stastney was the puppet master who pulled the strings. He controls SeeCubic and Technovative, and he also controls SLS Holdings VI, LLC ("SLS"), Stream's only secured creditor other than Hawk. Stastney caused SeeCubic to notify Hawk that the transfer was coming. To effectuate the transfer, Stastney gave instructions to SeeCubic's counsel to give instructions to himself (this time in his capacity as an officer and director of Technovative) to title the Shares in Stream's name. As planned, Hawk immediately asserted its rights to the Shares, at which point Stastney transferred title to the Shares into Hawk's name. Stastney and SLS benefitted, because SLS's rights as a secured creditor are senior to Hawk's. (*10/3/22 Opinion* at pp. 1-2, emphasis added)

Despite finding Stastney, SeeCubic, and Hawk in contempt, the Vice Chancellor imposed no sanction on them other than ordering the Technovative shares to be immediately vested with Stream and requiring Hawk to refrain from any action against Stream for 10 business days. On September 28, 2022, the Vice Chancellor had stated that Stream had "the right to use the Legacy

¹⁸ ECF 48, Exhibit K

Stream Assets to conduct business and make efforts to satisfy the claims of Hawk and Stream's other creditors," but less than a week later, he only afforded Stream two weeks to possess its assets unmolested.

33. Although title to the Technovative shares was transferred to Stream, no physical assets were transferred. The return of assets through the transfer of stock shares was largely symbolic and of no practical effect, as SeeCubic maintained control over assets it possessed solely through the improvident injunction. Stastney maintained dominion and control of the company's technology through his directorships of SCBV, which conducts R&D operations, and Ultra-D Cooperatief ("UDC"), which owns the Debtors' patent portfolio.

34. With Technovative ownership finally returned to Stream, Mathu Rajan executed various corporate resolutions and conducted board meetings from October 3, 2022 through October 11, 2023 to restore his position as director of Stream's subsidiaries, including the three Dutch entities. These steps returned legal control of the foreign assets to Stream, although there was no transfer of possession. Stream explored options to retain Dutch legal counsel to register the changes of directorship with the Netherlands Chamber of Commerce but was unable to complete the process before Hawk commenced its next action.

35. On October 17, 2022, after waiting 10 business days as instructed by the Chancery Court, Hawk once again asserted its purported proxy rights, issued asset marshalling orders, and appointed Stastney as the sole director of Technovative in furtherance of its goal to sell the Assets in a UCC Article 9 sale. Knowing that Stream had served Hawk debt conversion notices and would challenge Hawk's rights as a creditor, Hawk simultaneously filed an action in the Chancery Court to determine the validity of Stastney as a disputed director of Technovative (the "225 Action")¹⁹.

¹⁹ ECF 48, Exhibit CC

36. Aware that Stream had executed corporate resolutions restoring Mathu Rajan as director of Stream’s subsidiaries, Stastney, SLS, SeeCubic, and Hawk – through Dutch counsel De Brauw Blackstone Westbroek N.V. (“De Brauw”) – filed a Writ of Summons on October 20, 2022 in the Amsterdam Court seeking to have Mathu Rajan’s appointment invalidated and Stastney confirmed as director of Stream’s three Dutch subsidiaries (the “Amsterdam Action”). Notably, Stastney included those same Dutch subsidiaries as plaintiffs in the action.

37. In response, the Chancery Court issued a Status Quo Order²⁰ and appointed a Receiver *Pendant Lite* (the “Receiver”) to oversee the operations of Technovative. The Status Quo Order required Stastney, SeeCubic, Hawk, and SLS to withdraw their Amsterdam Action, but it also froze all Assets, which remained out of Stream’s reach despite the Mandate of the Delaware Supreme Court more than four months previous and several subsequent Opinions and Orders of the Chancery Court.

38. Over the next few months, Stastney – who remained registered as director in the Netherlands Chamber of Commerce – directed the operations of SCBV and pushed SeeCubic business development projects forward with the Receiver by representing them as projects owned by, and for the benefit of, SCBV. The Receiver allowed the projects to proceed.

39. On February 21, 2023, Rembrandt 3D Holding Ltd (“Rembrandt”) filed suit against Technovative, Hawk, and SeeCubic in the U.S. District Court for the District of Delaware²¹ alleging misappropriation of trade secrets and seeking injunctive relief. The complaint asserted that rights to Rembrandt IP had been licensed to Stream but could not be used by Stream’s subsidiaries **except for the express benefit of Stream**. Since the projects being authorized by Technovative were for the benefit of SeeCubic and Hawk – or for the benefit of SCBV at the very

²⁰ ECF 48, Exhibit DD

²¹ C.A. No. 23-193-GBW

least – the projects violated Rembrandts IP rights. I understand that the case against Technovative is currently stayed due to this Bankruptcy but is still proceeding against SeeCubic and Hawk.

40. Still without access to its Assets nine months following the Delaware Supreme Court Opinion, Stream filed for chapter 11 bankruptcy protection on March 15, 2023. The Receiver resigned his position and returned management of Technovative to Stream.

41. On March 30, 2023, Mathu Rajan was registered at the Netherlands Chamber of Commerce as director of Stream’s three Dutch subsidiaries based on corporate resolutions previously executed in October 2022. I personally worked with a Dutch notary, who analyzed the documents, confirmed both their validity and appropriateness for the purpose, and facilitated the registration changes. Stastney was deregistered in the process. Accordingly, Stream once again had dominion and control of its overseas assets, if not actual possession.

42. Despite the worldwide stay afforded Stream in bankruptcy, on April 2, 2023, Stastney, SLS, SeeCubic, and Hawk – through De Brauw – sent a letter to Stream’s Dutch notary demanding documentary evidence supporting the Netherlands registration changes and requesting the notary to “inform us as soon as possible what steps you deem appropriate in mitigating the consequences of the Director Changes, including options for undoing these filings.”²²

43. Simultaneously, De Brauw notified management of SCBV that Mathu Rajan’s appointment was invalid, and that the Notary was “being questioned.” Counsel for SCBV manager Patric Theune (“Theune”) sent a letter to Stream on April 3, 2023²³ stating, in part, that (a) SCBV had doubts about the legitimacy of Mathu Rajan’s status as director and (b) Theune would not relinquish possession of the Bonding Equipment to Stream.

²² ECF 76, Exhibit D

²³ ECF 76, Exhibit E

44. On April 5, 2023, Stream filed an *Amended Emergency Motion for Entry of an Order: (1) Enforcing the Automatic Stay; (2) Directing the Turnover of Property of Debtors' Estate; and (3) Imposing Sanctions for Willful Stay Violations* (the “Turnover Motion”)²⁴, providing details about the Bonding Equipment and other key assets that SeeCubic had willfully failed to return²⁵. In conjunction with the filing, Stream also filed a *Motion for Expedited Hearing on Emergency Motion Directing the Turnover of Property of Debtor's Estate*²⁶.

45. The same day, on April 5, 2023, DeBrauw filed a Writ of Summons in the Netherlands²⁷, renewing the Amsterdam Action it had withdrawn in October 2022. Once again, Stastney, SeeCubic, SLS, and Hawk were attempting to remove Mathu Rajan as director of Stream's Dutch subsidiaries and appoint Stastney in his place. The Writ also attempted to block Mathu Rajan's efforts to secure the return of the Bonding Equipment to Stream.

46. On April 7, 2023, Stream filed a Supplement²⁸ to its amended motion for an expedited hearing, informing the Bankruptcy Court of the actions by Stastney and his associates to interfere with assets of the Debtors' estates.

47. On April 14, 2023, the Bankruptcy Court held an emergency hearing. Judge Coleman stated:

Now, I don't appreciate people going to another jurisdiction and to get another court to decide that they own it and that nothing should happen and no direction should be made with respect to the turnover or release of that equipment. Because that's exactly what you guys have asked for. I'm reading it and I don't appreciate that. That's not going to happen. (4/14/23 *Hearing Transcript* at 117:7-13)

I want the matters in the Netherlands, which is scheduled for next week to just hold on a minute, because I'm concerned that this is going to have some impact on what I'm doing. It's going to have some impact on whether the Debtor believes to

²⁴ ECF 76

²⁵ ECF 76, Exhibit C

²⁶ ECF 77

²⁷ ECF 90, Exhibit A

²⁸ ECF 90

have their rights here in this Court, and it belongs to them here. And I need to protect those rights with respect to their ability to control these things. (*Id.* at 181:7-13)

48. Despite instructions to refrain from pursuing the Amsterdam Action, Stastney and his associates pushed forward. The case was briefed over the next two months and resulted in a hearing in Amsterdam Court on June 28, 2023. I testified as a witness on behalf of Stream in that hearing and observed the entire proceeding.

49. Based in part on testimony from Theune, who refused to acknowledge Mathu Rajan's authority, and on SeeCubic's assertion that it would continue to provide funding to SCBV through a promissory note while U.S. litigation was pending, the Amsterdam judge issued a ruling on June 29, 2023. The Summary Judgment appointed Jasper Berkenbosch ("Berkenbosch") as an "independent" interim director of all three Stream Dutch subsidiaries, with Berkenbosch serving in such capacity until a U.S. court determined whether Hawk or Stream had the legal right to appoint a director. Stastney had succeeded in removing control of the Debtors' subsidiaries from the Debtors.

50. When informed by Stream's counsel that the Amsterdam Action had proceeded, Judge Coleman expressed her displeasure²⁹:

I'm hoping it was just the [Amsterdam] Court on its own decided to do that. And I want everybody to know that, if it was not, **there are going to be some serious consequences**. Because I was clear that nothing was to go before that [Court]...

Despite the Court's admonition that there would be consequences for the affirmative actions of Stastney, SeeCubic, SLS, and Hawk in the Amsterdam Court, there were none. Their ongoing pattern of ignoring Court orders and instructions produced no repercussions once again.

²⁹June 29, 2023 *Hearing Transcript* at p.177:19-22

51. Berkenbosch communicated to Stream that SCBV intended to continue its work on SeeCubic projects and enter into a contract with Hyundai Mobis as the next step in an ongoing SeeCubic automotive project. Stream informed Berkenbosch that the Hyundai project would violate certain third-party licenses, including Stream's license with Rembrandt. Berkenbosch indicated that SCBV management and employees were strongly encouraging him to proceed, and that SeeCubic had threatened to withhold funding guaranteed by the promissory note if SCBV did not sign the Hyundai agreement.

52. Berkenbosch did not serve long as the interim director of Stream's Dutch subsidiaries. Upon learning of the Hyundai project, on August 6, 2023, Rembrandt sent Berkenbosch a cease and desist letter which detailed the license terms it had reached with Stream, the infringement SCBV was committing by engaging with SeeCubic as a non-licensee, and the consequences faced by SCBV, Berkenbosch, and Berkenbosch's firm, Jones Day, for trade secret violations. Faced with potential claims that could equal the \$1.2 billion value of Rembrandt's license with Stream, Berkenbosch resigned.

53. On August 12, 2023, Stream filed an Adversary Complaint³⁰ against Stastney, SLS, Hawk, Arthur Leonard Robert Morton ("Morton," principal of Hawk), SeeCubic, Gollop, Gola, SCBV, Theune, and other parties named and unnamed working in concert with them. The complaint (a) detailed the status of Stastney, Gollop, and Gola as true insiders of the Debtors³¹; (b) detailed the seizure and retention of the Debtors' Assets by SeeCubic; (c) provided a list of assets wrongfully retained by SeeCubic and the other defendants³²; (d) detailed the ongoing use of those assets to the detriment of the Debtors³³; (e) alleged breach of contract, breach of fiduciary

³⁰ Adversary Case 23-00057-amc, ECF 01

³¹ Adversary Case 23-00057-amc, ECF 01 at ¶¶ 55-81

³² Adversary Case 23-00057-amc, ECF 01 at ¶ 128

³³ Adversary Case 23-00057-amc, ECF 01 at ¶¶ 126-127

duty, negligence, fraudulent conveyance, and tortious interference; (f) sought injunctive relief and turnover of assets; and (g) sought to have the SeeCubic, SLS, and Hawk bankruptcy claims subject to equitable subordination, disallowance, recharacterized as equity interests, or subject to right to set off under 11 U.S.C. § 558.

54. After Berkenbosch's resignation on August 18, 2023, the Amsterdam Action resumed with additional briefings by the parties. On September 13, 2023, during a second hearing held in Amsterdam Court, Stastney testified about 12 or 13 projects he had developed for the benefit of SCBV, which qualified him to serve as a beneficial director of the Stream Dutch entities. Faced with (a) a lack of independent director options due to the Rembrandt IP claim and (b) Stastney's willingness to serve as a director with revenue-generating projects in hand, the Amsterdam judge issued a new ruling on September 20, 2023. The new Summary Judgment appointed Stastney as interim director, a position he has now held for more than a year. Accordingly, Stastney continues to exercise dominion and control over the Debtors' R&D operations, its technology, its intellectual property, its trademarks, its websites, its business data, and its position in the global market as developer of industry-leading glasses-free 3D.

55. On September 30, 2023, Stream filed a *Motion for Temporary Restraining Order, Preliminary Injunction, and Permanent Injunction* ³⁴ to prevent Stastney, in his newly restored position of power as director of Stream's Dutch subsidiaries, from using estate assets for the benefit of SeeCubic as he had done previously. That commenced a series of hearings in Bankruptcy Court on October 6, 2024, October 16, 2024 and October 30, 2024, with more to follow in November and December.

³⁴ Adversary Case 23-00057-amc, ECF 27

56. On November 6, 2023, Stream filed an *Additional Supplement to Debtors' Emergency Motion for Entry of an Order: (1) Enforcing the Automatic Stay; (2) Directing the Turnover of Property of Debtors' Estate; and (3) Imposing Sanctions for Willful Stay Violations*³⁵, once again documenting assets that SeeCubic had failed to return and was using as a direct competitor to Stream.

57. Due to motions practice that received higher priority (*i.e.* SeeCubic's Motion to Dismiss, Stream's Adversary Complaint and Motion for TRO), Stream's Turnover Motion of April 5, 2023 was put in abeyance and ignored for many months, even when Stream counsel pressed the matter at the end of October 2023³⁶. The Turnover Motion remains in limbo to this date, more than a year and a half after being filed.

58. Shortly after the Trustee was appointed, Stream contract employee Nicole Maneen worked diligently to educate the Trustee about Stream's technology, its business prospects, its history, and other material facts that might enable him to carry out the Court's mandate successfully. On March 7, 2023, Mrs. Maneen provided a list of assets that had never been returned to Stream³⁷, with the expectation that the Trustee would marshal them and secure their return for the benefit of the Debtors' estates.

59. On March 11, 2023, the Trustee made initial efforts to secure the return of Stream's assets, writing to Theune at SCBV. The Trustee stated, "I am directing the relocation of Stream's

³⁵ ECF 458

³⁶ Stream Counsel: I'd like to clarify the record if I may. We did file an emergency motion for enforcement of the stay against all activity regarding the debtor's estate. Everything, not just the bonding equipment. It was filed. It was vociferously objected to. We decided -- Your Honor said hey, you guys need to stop bringing things on an emergency basis. You put it into abeyance. It's been sitting in abeyance, and it was finally, through discussions with your chambers, set for November 15th. But to say that this is a brand-new issue. It's not our fault that the motion went into abeyance and there were intervening issues with both yourself and with Mr. Rajan. But to say that we didn't think this was a problem, we did. We filed it.

Judge Coleman: All right. And is the one that never -- never mind. So for some reason, the clerks all -- no. I'm not going to throw anybody under the bus. (10/30/23 Hearing Transcript at 100:23-101:13)

³⁷ Attachment to Maneen email of March 7, 2024 (*See* Exhibit C)

bonding equipment as well as the return of the assets identified on the attached itemized list. I've copied Nicole [Maneen] on this email who will be coordinating with you on the logistics.”³⁸ Theune responded on March 12, 2024, “I cannot simply ignore Shad [Stastney] and take your instructions instead without his acknowledgement. ... I thus have copied Shad in this e-mail, and kindly request him for guidance on what's happening and how to deal with this.”³⁹ To my knowledge, there was no response from Stastney, who remained silent on the matter. Two days later, on March 14, 2023, Theune proposed a plan to return the Bonding Equipment, requesting significant funds and time for inspections and other unnecessary steps.⁴⁰

60. VSI offered to provide funds necessary to release the Bonding Equipment from the warehouse and ship it to a location where the equipment could be used by a strategic partner to begin generating revenue for the Debtors. However, on March 26, 2023, the Trustee sent an email to Mrs. Maneen stating, “I’m not directing anyone in the Netherlands to do anything without funding. ... **The DIP needs to be advanced in the amount of at least \$5 million** without any commitment to following VSI’s proposed path forward.”⁴¹ From that point forward, it appears the Trustee gave up any pursuit of marshalling estate assets.

61. With most of its activity overseas, SeeCubic operates beyond the view of the Bankruptcy Court, where it can violate the TRO with impunity. I have been privy to communications from individuals who have invested in both SeeCubic and VSI. These investors have shared direct communications from Stastney in which he updated SeeCubic stakeholders about activity in this Bankruptcy case, progress with “28 projects across 25 customers” (who were all engaged in proof-of-concept stages of negotiations with SeeCubic and SCBV, which is under

³⁸ Trustee email of March 11, 2023 (*See* Exhibit D)

³⁹ Theune email of March 12, 2023 (*See* Exhibit E)

⁴⁰ Theune email of March 14, 2023 (*See* Exhibit F)

⁴¹ Trustee email of March 26, 2023 (*See* Exhibit G, emphasis added)

Stastney's control as sole director), and investment opportunities to finance the Stalking Horse carve-out required for the 363 Sale. Meeting dates, participating individuals like Stastney and Theune, and other details have been shared with VSI by investors concerned about the ongoing TRO violations.

62. On May 6, 2024, Rembrandt notified counsel for SeeCubic and Hawk that it had become aware of a planned May 7, 2024 meeting to be held by their clients in violation of the TRO. Counsel for SeeCubic failed to acknowledge Rembrandt's email at all. Hawk's counsel eventually responded, but only two days after the alleged meeting had occurred. Hawk's counsel stated:

It is up to the Debtors to determine whether they believe a violation occurred or needs to be addressed. The Debtors have not taken any action or voiced any concerns. The e-mails also suggest Rembrandt believes its technology may have been improperly used. But there is no pending motion or order defining or dealing with the use of Rembrandt's technology.

63. On multiple occasions, VSI informed the Trustee that it believed violations were being committed by Stastney, SeeCubic, Hawk, SCBV, and Theune. The Trustee was notified about fundraising meetings conducted in April 2024 and May 2024, including a global Zoom teleconference on May 28, 2024 that was recorded by both SeeCubic and the investor who reported the meeting to VSI. VSI specifically encouraged the Trustee to contact Stastney and request a copy of the Zoom recording as an easy step to confirm whether or not a violation had occurred. To my knowledge, the Trustee made no effort to investigate the alleged violations.

64. I am personally aware of TRO violations that have occurred, as confirmed by the Trustee via email to me (though he offered an explanation in an attempt to allay my concerns). Pursuant to the IP license between Stream's non-debtor Curacao subsidiary, Ultra-D Ventures C.V. ("UDV"), and Koninklijke Philips N.V. ("Philips"), UDV is obligated to file quarterly royalty

reports in the Philips customer portal. As UDV is a non-debtor subsidiary with Mathu Rajan registered as the sole director, reporting requirements are the responsibility of Stream consultants like Suby Joseph and me. Mr. Joseph made repeated requests to the Trustee for Q1 2024 sales data, to no avail. Mr. Joseph made repeated requests to the Trustee for Q2 2024 sales data, also to no avail. When the reporting obligations became seriously overdue, Philips issued a default notice to Mr. Joseph. That's when I got personally involved.

65. On September 10, 2024, I sent an email to the Trustee⁴² and informed him of the seriousness of failing to report sales as required. The consequence could have been cancellation of the Philips license, which would have made the Debtors' estate assets virtually worthless. In my email, I stated:

Accurate sales information required for the Philips royalty reporting can only be provided by SeeCubic B.V., which is currently under the direction of Shad Stastney. You are aware of this, as you obtained such information for Q4 2023 on January 29, 2024 – just in time to provide it to Suby for posting in the Philips licensee portal as required per contract. Either Mr. Stastney has refused to provide such information for the first two quarters of 2024, or you have not yet requested it. Regardless, Ultra-D Ventures is in breach, and Stream faces irreparable harm if the license is terminated.

It is of particular significance that SeeCubic B.V. has been enjoined by TRO since January 4, 2024 and SHOULD, therefore, have no sales to report. However, the royalty report MUST be accurate. If SeeCubic B.V. has, in fact, sold any units (even demonstrator samples), those sales must be reported to Philips. The license fees for such sales are minimal, as you saw from the Philips Q4 2023 invoice. Termination of the license becomes much more likely if a fraudulent royalty report is filed. It is up to you to obtain true and accurate sales data and authorize the royalty reporting immediately.

66. On September 10, 2024, the Trustee sent an email to me⁴³, stating:

Bud, the TRO is no longer in effect. I settled that issue.

During Q1 no displays were delivered. As a result, the reporting is empty.

During Q2 two (2) 12.3-inch display demonstrators were delivered to a customer. Please have Suby submit the appropriate reports through the Philips portal. Once

⁴² See Exhibit H

⁴³ See Exhibit H (emphasis added)

the reporting is remitted, I will be adding myself as the primary licensee contact in the database.

The Trustee's email included two attachments, one for Q1 2024 and one for Q2 2024. The Q2 2024 report⁴⁴ clearly documented the sale of technology demonstrator units by SCBV and the Trustee's knowledge and approval of it. This is further confirmed by the September 2024 Monthly Operating Report⁴⁵, which indicates a royalty payment made to Philips pursuant to the Philips license agreement. This confirms that the Debtors' subsidiaries, under the direction of Stastney, have sold products containing the Debtors' technology in violation of the TRO.

67. The Trustee's statement to me that "the TRO is no longer in effect. I settled that issue" seemed odd to me. It is my understanding that only the Court can lift a restraining order. If the 9019 Settlement between Stream and its secured creditors had indeed "settled" the issue when the Court approved the 9019 Settlement on June 7, 2024, why was the TRO subsequently extended by the Court three more times on July 30, 2024⁴⁶, September 27, 2024⁴⁷, and November 7, 2024⁴⁸?

68. On November 8, 2024, Mr. Joseph received an invoice via email from Philips related to Q3 2024 data reported to Philips by the Trustee. The invoice⁴⁹ showed a balance due of € 25.00, indicating that more technology samples had been sold in Q3 2024. The royalty report filed by the Trustee⁵⁰ shows sales of 10 units of 15.6" 3D center console demonstrator displays for the automotive market were sold during the reporting period.

69. As detailed in the October 31, 2024 SCBV Balance Sheet⁵¹ provided by SSG in response to VSI's due diligence requests, SCBV has accepted € 29,347,375 (approximately \$30.8

⁴⁴ Q2 2024 Philips Royalty Report (*see* Exhibit I)

⁴⁵ ECF 769-1

⁴⁶ Adversary Case 23-00057-amc, ECF 148

⁴⁷ Adversary Case 23-00057-amc, ECF 150

⁴⁸ Adversary Case 23-00057-amc, ECF 152

⁴⁹ Q3 2024 Philips Royalty Invoice (*see* Exhibit J)

⁵⁰ Q3 2024 Philips Royalty Report (*see* Exhibit K)

⁵¹ SCBV Balance Sheet (*see* Exhibit L)

million) in funding from SeeCubic since SeeCubic took control of Stream's subsidiary in December 2020. In exchange for such funding, SCBV has continued to engage in projects at the direction of Stastney for the benefit of SeeCubic, despite clear instructions from Stream that SeeCubic has no such authority and is operating as a direct competitor to the Debtors. Worse still, management of Stream informed Theune and other SCBV employees that SeeCubic projects infringe third-party technology licenses obtained by Stream, and that such infringement puts the Debtors at significant risk. SCBV continues to work on SeeCubic projects to the exclusion of any of the Debtors' projects, with one SCBV executive commenting: "Our boss is whoever pays us."

70. To date, SeeCubic maintains dominion and control over significant estate assets that have neither been returned to the Trustee nor even identified by SeeCubic. The proposed 363 Sale, with its catchall terminology, appears to be an attempt to use the bankruptcy process to "cleanse" title to all assets, wherever located, without them ever needing to be disclosed or physically transferred.

The Bonding Equipment

71. On March 12, 2015, Stream entered into an agreement with Inuma Gauge Manufacturing Co. ("Inuma") for the manufacture and purchase of Small Production Line ("SPL") and Mass Production Line ("MPL") optical bonding equipment (together, the Bonding Equipment)⁵². The sales agreement clearly specified that Stream, not its subsidiary SCBV, was the purchaser.

72. A few months later, the SPL was delivered by Inuma and installed at the manufacturing facility of Stream's Original Equipment Manufacturer, Pegatron, in Suzhou, China.

⁵² ECF 49-1

In early 2016, the MPL was delivered by Iinuma and also installed at the Pegatron facility in Suzhou.

73. In 2016 and 2017, the Bonding Equipment was used to manufacture thousands of glasses-free 3D displays, achieving a 96% yield and confirming viability for mass production. I personally observed the Bonding Equipment in operation at Pegatron.

74. Dissatisfied with the economic terms of the Pegatron OEM relationship, Stream elected to remove its Bonding Equipment from the Pegatron facility and signed a lease to rent a warehouse in Suzhou from Hold Jumper (Suzhou) Packing Company (“HJPC”) on December 12, 2018. Iinuma assisted with the disassembly, packing, and transportation of the Bonding Equipment to the HJPC warehouse.

75. From 2018-2020, Stream paid HJPC more than \$1.2 million for warehouse rent. However, as the Covid-19 pandemic impacted Stream’s ability to showcase its must-see Ultra-D technology, raise capital, and secure customers, Stream fell behind in its payments and worked out a repayment plan with to HJPC to satisfy its obligations.

76. In May 2020, Mathu and Raja Rajan executed a Stockholder Consent that removed Gola, Gollop, and Krzysztof Kabacinski as directors of Stream. Though the Consent was dated May 6, Vice Chancellor Laster concluded that “[i]t was not until May 9 that the Rajan brothers informed Gola and Kabacinski that they had been removed as directors. It was not until May 11 that Stream notified Gollop of his removal.” (Chancery Court *PI Opinion* at p.12). Vice Chancellor Laster did not challenge the validity of the Stockholder Consent, just the timing as it related to execution of the Omnibus Agreement. This will become important in August 2020.

77. Stream sold a lot of screens in mid-2020 to one of its primary customers, Marvel Digital (“MD”). The top executive at MD offered to pay the overhead for a cooperative optical

bonding operation beneficial to both Stream and MD, and the companies began exploring logistical plans for strategic collaboration.

78. In parallel with its negotiations with MD, Stream also negotiated with Chinese government officials in Hefei and Beijing. Both cities wanted “bragging rights” to have Stream’s technology headquartered in their cities and prepared proposals to pay warehouse space and other operating costs if Stream moved its cutting-edge equipment from Suzhou.

79. In short, Stream had several options available for resolving its Bonding Equipment warehouse needs and open balance with HJPC. MD made arrangements with Stream to pay the outstanding balance with HJPC in exchange for a the mutually beneficial bonding operation contemplated between the companies.

80. In July and August 2020, SeeCubic discovered that Stream was selling its inventory of 65” glasses-free displays and was exploring options to reassemble the Bonding Equipment in a new location to enable a restart of production. SeeCubic sought to take control of the Bonding Equipment, preventing Stream from realizing revenue that could be used to retire the secured debt.

81. Despite the fact that Gola and Gollop were removed as directors of Stream in May 2020, they signed a Delegation of Authority Letter⁵³ as directors, on Stream letterhead, on August 24, 2020, empowering a Delegate of their choice to “represent [Stream] and all its subsidiaries...in liaising with commercial landlords...including negotiating arrear repayment plans and agreements, renegotiation of lease conditions.” The Letter further stated:

The Delegate may represent [Stream] in performing viewings and inspections, including inspections of all Company equipment and other assets stored or transported to its premises, including industrial real estate locations least from companies in China. He may also arrange transportation of goods and machinery in and out of such facilities.

⁵³ ECF 48, Exhibit S

Purporting to act with authority from, and on behalf of Stream, Gola and Gollop empowered a third party to seize Stream's Bonding Equipment.

82. Shortly after Stream filed for a Temporary Restraining Order with the Delaware Chancery Court on September 8, 2020 to prevent SeeCubic from continuing to seize the Assets, Vice Chancellor Laster issued a Status Quo Order on September 23, 2020.

83. The Status Quo Order had two significant negative impacts on Stream: (a) it scared off MD from making payments to HJPC in cooperation with Stream for the planned optical bonding joint venture, and (b) it prohibited Stream from raising new capital, so Stream's overall debt and the balance owed to HJPC continued to grow.

84. April 23, 2021 – a settlement agreement with HJPC was entered into and signed by the then-director of Stream's China subsidiary. The balance due per that settlement agreement was approximately \$900K. However, with the dismissal of Stream's initial bankruptcy case in May 2021, the provisions of the Chancery Court Preliminary Injunction were once again in effect, and Stream was unable to consummate its settlement with respect to the Bonding Equipment.

85. SeeCubic subsequently paid the warehouse balance on behalf of Stream's China subsidiary and claimed title to the Bonding Equipment, which remained in the HJPC warehouse.

86. Upon issuance of the Delaware Supreme Court Mandate and the Chancery Court's subsequent order that SeeCubic return the Bonding Equipment to Stream, SeeCubic elected to transfer the equipment to SCBV and argued that returning the asset to Stream's subsidiary was as good as returning it to Stream. Although no Bill of Sale or other change of title paperwork has ever been produced, SeeCubic and SCBV both claim that SCBV is now the owner of the Bonding Equipment. As such, SCBV has refused to release the Bonding Equipment to Stream despite many requests by Stream.

87. Now that Stastney is the sole director of SCBV, he once again exerts dominion and control over Stream's Bonding Equipment, which has remained out of reach and unavailable for Stream to initiate its optical bonding co-venture with Cystar International ("Cystar," an affiliate of MD). Stastney refusal to enable the return of the Bonding Equipment is one aspect of Stream's Adversary Case in which is alleges tortious interference.

Technovative Stock Shares

88. As stated above, upon execution of the Omnibus Agreement, SeeCubic made every effort at self-help to seize Stream's assets. Primary of these were the stock certificates of Technovative, the top-level entity which owns all the downstream subsidiaries as previously described.

89. In September 2020, prior to the commencement of the Chancery Court litigation, and long before there was any adjudication of the validity of the Omnibus Agreement, Stastney gained entry into Stream's corporate offices while no Stream personnel were on site, using an office key he had retained from his time as an employee 9 months earlier. Entering without permission, he searched Stream's office for the Technovative stock certificates.

90. Unable to find the stock certificates, on September 4, 2020, Stastney created documentation declaring the certificates officially lost, used power of attorney granted to him through the Omnibus Agreement, and created new stock certificates which I believe were registered with the State of Delaware. Simultaneously, he executed new corporate documents establishing himself as the sole director of Technovative, with the power to direct all of the downstream subsidiaries.

91. Stastney and SeeCubic retained title and control of the Technovative shares until the Chancery Court issued its Mandatory Injunction on September 30, 2022 and demanded the return of the shares to Stream.

92. As stated above, Stastney coordinated a scheme with Hawk whereby Stastney signed the stock certificates back to Stream but had Hawk exercise purported proxy rights to vote the shares as a secured creditor and appoint Stastney as the director. The maneuver was executed over the course of “an extended lunch hour” as observed by Vice Chancellor Laster, who found Stastney, SeeCubic, and Hawk in contempt for their obvious attempt to thwart the order of the Court.

93. After a two-week delay imposed by the Chancery Court, Hawk once again attempted to exercise its proxy rights and filed the 225 Action so that the Vice Chancellor would determine whether Hawk or Stream had the right to appoint the Technovative director(s). The 225 Action did not dispute that Stream owned the Technovative shares, only that Stream did not have the right to appoint the Technovative director. Hawk’s stated purpose for appointing Stastney as director of Technovative was to further its plan to arrange a UCC Article 9 sale of the Assets for the benefit of Hawk (as collateral agent for SeeCubic).

94. The 225 Action was stayed by this Bankruptcy Case. Stream remains in control of Technovative, and this Court has appointed the Trustee to serve as the interim managing director of Technovative.

Computer Servers and Intellectual Property

95. Stream’s Ultra-D technology and other intellectual property was developed at SCBV, its R&D facility in the Netherlands. Computer code and other non-tangible IP has been stored on SCBV servers since the formation of SCBV in 2011 and was the only storage location

of the company's intellectual property until 2019. Although a secondary engineering team was established in Germany in 2018, the Netherlands servers were the primary repository of all the computer code.

96. In 2019, Stream engaged a product engineering team in Silicon Valley, USA to facilitate translation of development computer code into computer code more suited for mass production. Stream established an engineering office in Fremont, California, leased servers from Dell, and engaged a third-party vendor, MotivIT, to provide server storage facilities and IT support.

97. Stream's Silicon Valley engineering team worked to productize the Ultra-D computer code for most of 2019 and the early part of 2020. As the global pandemic hit and Stream was faced with fundraising challenges, Stream fell approximately \$50,000 behind on its payments to MotivIT. In March 2020, I personally engaged in negotiations with Derrick Bowker, a MotivIT executive who agreed to a 3-installment payment plan that would bring the Stream account current⁵⁴. Stream made the first of the agreed payments on March 11, 2020 in the amount of \$17,475, with the understanding that Mr. Bowker would obtain the necessary approvals to fully execute the agreement.

98. Despite several attempts I made to get a signed settlement agreement so that subsequent installment payments could be made, MotivIT went radio silent and failed to respond to my emails. I was unaware at the time, and would not learn until documents were produced in discovery during the Chancery Court litigation later in the year, that MotivIT's retreat from settlement with Stream was prompted by Stastney.

99. On March 12, 2020, the day after MotivIT agreed in principle to settlement terms with me on behalf of Stream, Stastney sent an email to MotivIT declaring that Stream was in

⁵⁴ The MotivIT Settlement Agreement was agreed to in principal but never signed (see Exhibit M)

foreclosure and that all Assets were now the property of SLS. He instructed Mr. Bowker to hold the servers for the benefit of SLS and to take direction only from SLS. MotivIT subsequently blocked Stream's rightful access to its own hardware and computer source code.

100. Stream management became consumed with the May 6, 2020 Omnibus Agreement asset transfer and related actions related to the dispute thereof. With the pandemic causing a global shutdown of operations, Stream furloughed its Silicon Valley engineers. The Silicon Valley servers were not needed for any development work, and Stream focused its energy on other critical issues.

101. On September 9, 2020, however, Mathu Rajan emailed a letter to MotivIT to re-establish control of the servers. Mr. Bowker responded via email on September 10, 2020, stating:

In view of a court order you received from the new company, we have received payment from them and technically the new company is the owner of the equipment. You must secure a court order against the new company that these equipment are owned by Stream TV if wish to reclaim them.

When asked to produce the "court order" upon which MotivIT had decided to transfer Stream's servers to Stastney, Mr. Bowker emailed a copy of the SLS Superior Court complaint of March 23, 2020, a foreclosure action that had not been litigated, let alone become an order of the court. Stastney had sent MotivIT his court filing and misrepresented it as a court order, leading MotivIT to believe that Stastney was the new owner and the servers should be surrendered to him. SeeCubic subsequently paid the past due balance and claimed ownership of the server hardware in Chancery Court when it came time to return the Assets to Stream as mandated by the Delaware Supreme Court.

102. When Vice Chancellor Laster ordered the return of certain assets to Stream, he accepted SeeCubic's argument that it had paid for the Silicon Valley servers and should therefore not be required to surrender them to Stream. Instead, he ordered that Stream be allowed to copy the data only; SeeCubic was allowed to retain the servers and all the data on them even though it

was no longer entitled to possess Stream's intellectual property. To this date, SeeCubic maintains dominion and control of Stream's Silicon Valley servers and the computer data stored on them.

103. A greater number of computer servers, and a wider range of computer code and intellectual property, resides with SCBV in the Netherlands. SeeCubic seized control of SCBV at the time of the improvident injunction of the Chancery Court on December 8, 2020. As stated above, Stastney has never relinquished his position as director of SCBV except for the brief period that Berkenbosch was appointed interim director by the Amsterdam Court. Stastney has had operational control of SCBV since September 20, 2023, and through his position, he can and does direct the employees of SCBV and exercise control over all of Stream's intellectual property situated in the Netherlands: the patent portfolio, engineering source code, trade secrets, know-how, specialized equipment, and more.

Websites, Email, and Business Data

104. For more than a decade, Stream owned and maintained several website domains that included www.ultra-d.com, www.streamtvnetworks.com, www.seecubic.com, www.streamtvinternational.com, several other domains, and various extensions thereof. All website hosting was implemented through SCBV, which also handled global IT for Stream. Stream's email servers were hosted on local servers at the SCBV facility, which also hosted storage for data sharing through software like SharePoint. SCBV also provided BitLocker global encryption for Stream's business computers.

105. When the Chancery Court issued the preliminary injunction on December 8, 2020, Stastney seized control of SCBV and directed the IT manager to (a) change the BitLocker passwords to all of Stream's business computers, making them inaccessible to users; (b) change the email passwords so that Stream could no longer access mail archives (unless stored locally) or

receive send and receive new email; (c) provide Stastney with administrative access to all of Stream’s email (including attorney-client privileged communication related to the Chancery Court litigation which was still ongoing); and (d) revoke access by Stream to all data stored on SCBV servers, which included business, financial, personnel, and legal data.

106. SeeCubic immediately seized the SCBV domain (www.seecubic.com) as its own to replace the www.seecubic.co domain it had been using upon the company’s formation. The personnel page of the website was updated to include both SeeCubic manage and staff as well as SCBV engineers. Stream’s historical achievements (fundraising, testimonials, etc.) were ascribed to SeeCubic.

107. All other domains were populated with a single landing page that announced the takeover of Ultra-D by SeeCubic:

Stream TV Networks, along with all subsidiaries and all associated assets, has been acquired by SeeCubic, Inc. The groundbreaking glasses-free 3D technology, UltraD, was developed by SeeCubic BV in the Netherlands and is now the cornerstone of a new & innovative international company, SeeCubic, Inc. A new and invigorated management team has been created with industry leading senior executives who have merged their vision with the technology from the core engineers who developed this revolutionary product.

Notably, this acquisition and ownership announcement by SeeCubic still remains active for six domains⁵⁵ in violation of the TRO which specifically states that SeeCubic “shall not on any website ... make any representations with respect to ownership or development of such technology, purported to be owned and/or developed by Stream and/or its subsidiaries.” (*TRO* at 9(b)(ii)).

108. Following the Delaware Supreme Court Mandate and Chancery Court order to return Stream’s assets, Stastney caused SCBV to provide Stream with mid-level access to the

⁵⁵ 5 domains (www.stvinternational.com, www.stvinternational.eu, www.stvinternational.nl, www.streamtvinternational.eu, and www.stvi.eu) all have “pointers” that redirect to www.streamtvinternational.nl, which publishes language in violation of the TRO.

following domains: www.streamtvnetworks.com (and .net), www.streamtvinternational.com, www.ultra-d.com. However, despite several requests, Stream has never been given full administrator access to Amazon Web Services necessary to migrate the sites to a hosting service under Stream's control. As a result, Stream has been forced to register new domains for www.streamtvnetworks.tech and www.ultra-d.tech, which it does control, and place redirect pointers on its historical domains.

109. Stastney directed SCBV to create archive files of Stream email existing prior to December 8, 2020 and return those archival files to Stream, but only for personnel currently or recently engaged by Stream. SCBV retained all historical mail for personnel that abandoned Stream for SeeCubic in 2020, even though email communication is the property of the company, not the employees. Email data from Stream's VP of Sales, with valuable contact information and business leads, was retained by Stastney through SCBV because Stream's former sales team, including Leo Riley, Duncan Humpreys, and Simon Ford, are now employees of SeeCubic. The same is true for email archives for Franklin Rodgers and Bill Hennessey, Stream's former accounting team. Archives for engineers are also missing. And of course, Stastney refused to surrender his own business emails that were generated using Stream's domain while Stastney was an officer and director. What does Stastney have to hide, and why has SeeCubic been allowed to retain business data that it is not entitled to? All told there are 14 business email accounts that have not been returned.

110. Similarly, Stream was never granted access to the business, financial, and customer data stored on SCBV servers. SCBV had always been the global hub for data management, but once Stream was severed, it was never restored. SCBV initially argued that after almost two years of Stastney's control through SeeCubic, it was too difficult to sort the data, and Stream must be

restricted from accidentally accessing anything it was not entitled to. Suggestions to sort data by file date and segregate anything more recent than December 8, 2020 were met with silence, and Stream has been forced to operate without any meaningful historical data that was not backed up on local drives.

111. SCBV also exerted its IT muscle remotely. As directed by Stastney immediately following the Chancery Court preliminary injunction, SCBV changed the BitLocker encryption passwords on all Stream business computer systems. As a result, Stream was left with non-functioning equipment and no access to critical information required to operate in any meaningful capacity. The lockout turned my laptop computer into a paperweight.

112. Shortly after the Chancery Court preliminary injunction, SeeCubic contacted me and demanded that I surrender my business laptop, technology demonstrator units, and any other assets of Stream I might have in my possession. On December 14, 2020, I provided Stastney with a rough inventory of assets in my possession or under my control⁵⁶, which included a U-Haul storage locker in Los Angeles that housed primarily outdated equipment.

113. I helped coordinate the surrender of assets from Sara Brewer, one of Stream's content creators who also lives and works in Henderson, Nevada. Mrs. Brewer had only a high-end content creation laptop computer, two 65" 3D screens for previewing her work, some business equipment and marketing materials.

114. On January 29, 2021, SeeCubic arranged pickup of my business laptop, a 5.5" 3D technology demonstrator [phone] panel, two 27" 3D technology demonstrators with player PCs, and more as detailed in the inventory list I supplied to Stastney. SeeCubic picked up all assets from Mrs. Brewer and me via a local courier, who delivered them to a storage facility in San Ramon.

⁵⁶ Robertson email of December 14, 2020 to SeeCubic (see Exhibit O)

The freight company made a reasonably detailed list of assets Mrs. Brewer and I surrendered to SeeCubic, notating equipment serial numbers where available.⁵⁷

115. In July 2021, after receiving notices from U-Haul about past-due storage fees, I informed SeeCubic that the contents of the locker were due to be sold at auction for non-payment. SeeCubic responded that there was no interest in the items stored there and they were willing to let the locker contents be sold. Those items were obviously unavailable for return to Stream, as SeeCubic allowed them to be lost.

116. Following the Delaware Supreme Court invalidation of the Omnibus Agreement and the Chancery Court's order that assets should be returned to Stream, on October 12, 2022, SeeCubic arranged for me to access the San Ramon storage locker where the assets from Mrs. Brewer and me had been shipped almost two years earlier. I traveled from Nevada to Northern California and accessed the storage facility with a driver who would truck the assets back to Nevada for me. I was greatly disheartened to see how few assets were located there for pickup. There were no laptop computers, no 65" 3D displays. The case for the 5.5" demonstrator was there, but the box was empty. Any asset of reasonable value was missing. I photographed the locker and all its contents before returning all assets to Nevada for storage.

117. Suby Joseph surrendered the laptop computer he used as VP of Finance directly to Stastney's home. Amanda Gonzalez and Nicole Maneen surrendered the laptop computers they used as executive assistants to Stastney. Grazina Seskeviciute, Stream's VP of Content Creation stationed in the Netherlands and employed through SCBV, surrendered her high-end content creation laptop computer to the receptionist at SCBV at Stastney's request. None of these business computers were ever returned to Stream, despite multiple requests and court filings.

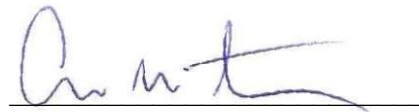
⁵⁷ Addendum to Robertson email of December 14, 2020 to SeeCubic (see Exhibit O)

Conclusion

118. From May 2020 through the present, Stream had its assets seized or was forced to surrender them to SeeCubic, first pursuant to the Omnibus Agreement, then through lack of turnover enforcement by the Chancery Court, then through litigation in the Netherlands that empowered Stastney to exercise dominion and control of the Debtors' most valuable assets.

119. Nobody but the Stalking Horse SeeCubic – not Stream's former management or the Trustee himself – has a reasonably accurate idea of just what the estate assets are, where they are located, what condition they are in, or what their value is. Conducting a 363 Sale of the assets as-is/where-is does a great disservice to all parties in interest.

Date: November 22, 2024



Charles M. Robertson

EXHIBIT E

IN RE:	:	Case No.	23-10763
	:		
STREAM TV NETWORKS, INC.	CH: 11	ADV. No.	23-00057
	:		
Stream Tv Networks, Inc. Vs	:	Philadelphia, Pennsylvania	
Shadron L Stastney	:	November 27, 2023	
	:	10:58 a.m.	
A) Motion Re: Motion For	:		
Preliminary Injunction Request	:		
For Temporary Restraining Order	:		
Filed By Alastair Crawford,	:		
Delaware And Other Law Firms	:		
Representing And Acting In	:		
Concert With John Doe(S) And/Or	:		
Jane Doe(S), Jane Doe(S), John	:		
Doe(S), Asaf Gola, Kevin Gollop,	:		
Hawk Investment Holdings Limited,	:		
Investment Banks Employed By John	:		
Doe(S) And/Or Jane Doe(S),	:		
Krzysztof Kabacinski, Arthur	:		
Leonard Robert "Bob" Morton,	:		
Seecubic B.V., Sls Holdings Vi,	:		
Llc, Shadron L Stastney,	:		
Seecubic, Inc., Patric Theune	:		
Represented By Rafael X.	:		
Zahralddin	:		
	:		
B) Motion For Sanctions For	:		
Violation Of The Automatic Stay	:		
Filed By Stream Tv Networks, Inc.	:		
Represented By Rafael X.	:		
Zahralddin	:		
.	:		

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(By Mr. Kodosky)

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(By Mr. Colby)

196

(By Mr. Caponi)

203

1 NOVEMBER 27, 2023 10:58 A.M.

2 THE BAILIFF: All rise.

3 THE COURT: Good morning, counsel.

4 UNIDENTIFIED SPEAKER: Good morning, Your Honor.

5 MR. KODOSKY: Good morning, Your Honor.

6 THE COURT: Okay. If I recall correctly -- well,
7 this the matter of Stream TV and Technovative, Inc., and it is
8 a motion for a preliminary injunction. I'm not quite sure if
9 it's preliminary at this point, but that's what it's called.
10 And if I recall correctly after our rather lengthy telephone
11 conference, last -- was that Friday?

12 MR. KODOSKY: Wednesday, Your Honor.

13 THE COURT: Oh, it was Wednesday, the day before
14 Thanksgiving. Yes, indeed. If I recall correctly, what we
15 planned for today's hearing is for the Debtor movant to
16 conclude its case in chief with the testimony of its, of Mr.
17 Michaels, correct? And then once that occurs, we were going to
18 then have the Respondents -- I have an echo. Is that -- I'm
19 hearing and echo. Okay. Then the Respondents were going to
20 commence their rebuttal. Well, I guess -- is it a rebuttal
21 witness or is it their response to the Debtor's case in chief?

22 UNIDENTIFIED SPEAKER: It would be our response.

23 THE COURT: Right. I don't know why we're calling
24 them a rebuttal, but we're not even there yet. Are we okay,
25 John? We did address one technical problem. I think Ken

1 addressed that one.

2 UNIDENTIFIED SPEAKER: I got --

3 THE COURT: Okay. I'm waiting for Taylor (phonetic)
4 to bring me a -- I guess we can continue on this. okay. Let's
5 start with entry of appearances, please. First for the Debtor
6 movant.

7 MR. KODOSKY: Keith Kodosky along with my partner,
8 Rafael --

9 MR. ZAHRALDDIN: Zahralddin.

10 MR. KODOSKY: -- Zahralddin.

11 THE COURT: Thank you very much.

12 MR. KODOSKY: And Your Honor, we also have Mr. Kevin
13 Shaw --

14 MR. ZAHRALDDIN: Kevin Shaw.

15 MR. KODOSKY: -- as well in the court with us.

16 THE COURT: Okay. Who's here for the responding
17 parties?

18 MS. BRUMME: Morning, Your Honor. Marley Ann Brumme
19 and Eben Colby of Skadden Arps for SeeCubic, Inc.

20 THE COURT: For SeeCubic.

21 MR. CAPONI: Morning, Your Honor. Steven Caponi from
22 K&L Gates on behalf of Hawk.

23 MR. WRIGHT: Good morning, Your Honor. Davis Wright
24 of Robinson and Cole on behalf of SLS Holding Vincenzo, LLC.
25 Terence Burgan from Ballard Bar in Manhattan. Anyone else

1 morning?

2 MR. GRUGAN: Good morning, Your Honor. Terance
3 Grugan from Ballard Spahr on behalf of Mr. Stastney.

4 THE COURT: Anyone else?

5 MR. DEMARCO: Morning, Your Honor. Andrew DeMarco
6 from Devlin Law Firm here for Rembrandt.

7 THE COURT: Are there any preliminary matters or can
8 we commence with the testimony of Mr. Michaels?

9 MR. KODOSKY: Your Honor, I think we should commence
10 with the testimony and if there's anything that we need to
11 bring up later, I'll alert you to it for on the -- on the
12 Debtor's side.

13 THE COURT: Mr. Colby? Ms. Brumme?

14 MR. COLBY: No, Your Honor.

15 THE COURT: Mr. Caponi? Anyone else? Okay. Let's
16 begin.

17 MR. KODOSKY: Thank you, Your Honor.

18 THE CLERK: Mr. Michaels, can you hear me?

19 MR. MICHAELS: Yes, I can.

20 CHRISTOPHER MICHAELS, DEBTOR'S WITNESS, SWORN

21 THE CLERK: Thank you. Could you please state and
22 spell your name for the record?

23 THE WITNESS: Christopher Michaels, spelled,
24 C-H-R-I-S-T-O-P-H-E-R Michaels, M-I-C-H-A-E-L-S.

25 THE CLERK: And if you could please state your

1 address for the record.

2 THE WITNESS: My residence address is 12417 Country
3 Day Circle, usually abbreviated, CIR for the post office, Fort
4 Myers Florida, 33913.

5 THE CLERK: Thank you.

6 DIRECT EXAMINATION

7 BY MR. KODOSKY:

8 Q Good morning, Mr. Michaels. Can you hear me okay?

9 THE COURT: Can we see him?

10 THE WITNESS: Yes, I can.

11 THE COURT: Can we see him. Okay. There we go.

12 BY MR. KODOSKY:

13 Q To begin, Mr. Michaels, I'd like to start with just a few
14 questions regarding your personal background.

15 THE COURT: Before we begin, counsel, Mr. Michaels,
16 do you have any -- can you adjust your camera, so that we can
17 see that you have nothing in front of you on -- if you're at a
18 desk or wherever it is you're seated.

19 THE WITNESS: I can try. Let's me see. We have --
20 so I'm not sure what you're seeing.

21 THE COURT: Or if you can just attest that there's no
22 documents or there's nothing in front of you.

23 THE WITNESS: The only thing in front of me is -- I
24 deactivated my iPad meeting. I put it in airplane mode and I
25 have a silent cell phone and then the computer monitor itself.

1 THE COURT: Okay, but --

2 THE WITNESS: And then just a mic.

3 THE COURT: But no document?

4 THE WITNESS: There's no papers.

5 THE COURT: All right.

6 THE WITNESS: No document.

7 THE COURT: All right.

8 THE WITNESS: -- in front of me.

9 THE COURT: All right. Thank you. You may proceed,
10 Mr. Kodosky.

11 MR. KODOSKY: Thank you, Your Honor.

12 BY MR. KODOSKY:

13 Q Mr. Michaels, I'd like to start with a few questions
14 regarding your personal background. Do you hold any degrees?

15 A I hold a degree in Chemistry from Bucknell University. I
16 hold a juris doctorate from Syracuse University and a Master in
17 Business Administration from the Wharton School University of
18 Pennsylvania.

19 Q What years did you receive those degrees?

20 A The degree from Bucknell 1989, '90s. I finished early in
21 -- but the law degree was in 1993 and 2014 MBA.

22 Q Thank you. Are you a member of any bars?

23 A Yes, the New York State Bar Association. I was admitted
24 in New Jersey, but I let that lapse once my family moved out of
25 the state and I am a registered patent attorney.

1 Q What year did you become a registered patent attorney?

2 A I actually passed the agent's exam in 1990 and once you
3 pass the -- so I was admitted in April of 1990, but all you do
4 is inform that you are now an attorney and they move you from
5 an agent to patent attorney status. It is not a
6 reregistration. It's the same registration, 1990.

7 Q Can you very briefly describe how one becomes a patent
8 attorney? Is there a process?

9 A Yes. To be qualified to sit for the registration exam,
10 you need a technical background and the patent office changes
11 that from time to time, but generally, what they call the hard
12 sciences, physics, chemistry. For a long time, biology, for
13 example, didn't even qualify. And once they've approved your
14 -- you have the proper technical background, they allow you to
15 sit for a registration exam and once passed, they submit you to
16 an ethics review and then you become registered as someone
17 authorized to represent individuals before -- individuals and
18 companies before the patent and trademark office.

19 Q Are you familiar with the term USPTO?

20 A Yes, the United States Patent and Trademark Office.

21 Q Thank you. Are you a member of a law firm?

22 A Yes. I -- the image behind me is the foyer of my law
23 firm, Brown and Michael's. Mike Brown has retired but practice
24 has been in existence since about 1980 it's had various
25 successors and partners come and go, but its current

1 incarnation is Brown and Michael's.

2 Q And where is the firm located?

3 A Ithaca, New York.

4 Q Any other branch offices?

5 A We have -- we're going to be moving our offices up into
6 Syracuse, but right now, we're largely working as remote. I,
7 for example, am sitting in Florida. My current business
8 partner is in Syracuse and one of our long term patent agents
9 is in Pittsburgh, Rochester, New York, so we work largely
10 remotely.

11 Q And when did you begin to practice at Brown and Michaels,
12 PC?

13 A 1989.

14 Q Are you the managing partner of the firm?

15 A Yes.

16 Q What year did you become managing partner?

17 A January 1st, 1994.

18 Q There's been reference made to Rembrandt in these
19 proceedings. Are you also employed by Rembrandt 3D Holding
20 Limited?

21 A I am an officer of the company. I do not receive
22 compensation or W-2 employment, but I'm an appointed officer.

23 Q And what office do you hold specifically?

24 A Chief financial officer.

25 Q And there are actually two companies with Rembrandt in the

1 name. Is that correct?

2 A Yes.

3 Q What is the second company's name?

4 A Rembrandt 3D Corp. And it's a Delaware Corporation.

5 Q In broad terms, can you please explain the difference
6 between the two companies?

7 A Yes. Rembrandt 3D Holding Limited is a holding company.
8 It owns most, if not all, of the intellectual property that is
9 related to these two companies for Rembrandt. The Rembrandt 3D
10 Corp is an operating company. It provides the installations,
11 purchases, contracts for our supply displays and then provides
12 services to clients who receive the displays. For example,
13 Rembrandt 3D Corp was the entity that sold the system to the
14 Frank L. Wright Museum, Pittsburgh Airport, et cetera and where
15 you can see installations of the no glasses 3D product prepared
16 by the Rembrandt companies.

17 Q Switching gears. Are you familiar with the Debtor, Stream
18 TV Networks, Inc.?

19 A Yes.

20 Q Are you familiar with Stream's Ultra D products?

21 A Yes.

22 Q What do you know about those products?

23 A We -- a fair amount, but we -- it is limited to what we
24 are able to see as users of the system. We've not seen any of
25 the internal code. We evaluated extensively the Stream TV

1 products before litigation was commenced and after and during
2 that litigation in the 2016, '17 litigation in the Southern
3 District of New York. Part of the mediation process was we
4 were provided examples of the displays that they were selling
5 at the time. And I sat in a room with executives and discussed
6 with our various team members the Ultra D product and what it
7 was capable of doing relative to various other products that we
8 had manufactured and various products that Phillips had
9 manufactured in the past.

10 Q And we're going to come back to that. In the meantime,
11 I'd like to ask you, does Rembrandt currently have a business
12 relationship with Stream TV?

13 A Yes.

14 Q Could you --

15 A We have a settlement agreement -- go ahead. Sorry.

16 Q I was just going to ask if you could please explain.

17 A Sure. The resolution of the litigation between Stream TV
18 Networks, Inc. and Rembrandt was a settlement agreement and
19 license agreement that provided for a number of things. One, a
20 cash payment; two, honoring the Rembrandt intellectual
21 property; three, the supply of at cost displays through
22 production agreements to be negotiated, but at all times at
23 cost. And we're now up to, you know, millions of units that
24 would be owed under that agreement. That works for both
25 companies, in that we're providing at least cost. It's not

1 that Stream would be losing money, but we are now moving our
2 supplier from other sources to Stream.

3 Q You referenced earlier Rembrandt's intellectual property.
4 What right does Stream TV have to use Rembrandt's IP under the
5 license agreement?

6 A Stream is a nonexclusive licensee. That allows them to
7 use it. It does not allow them to transfer any rights to that
8 technology other than to a consumer. And that's fairly
9 standard in the industry. But the -- if they wanted to do a
10 deal where they transferred out a manufacturing license, for
11 example, to somebody else, they would have to come back to
12 Rembrandt and Rembrandt would directly license that
13 manufacturer, if we were willing to do so at all. But in any
14 rate, we're -- the main existing relationship is going to be a
15 supplier -- Stream TV Networks to be a supplier to Rembrandt
16 and Rembrandt to have supplied technology in the form of a
17 license to Stream.

18 Q I apologize if you've already mentioned this, but how long
19 has Stream TV had the license with Rembrandt?

20 A That was actually the subject of the 2017 litigation. It
21 involved a contract that purported to give a license to them
22 and in return, it was to give certain monetary and ownership
23 rights to Rembrandt. As opposed to litigating that to
24 fruition, we reached the settlement agreement in 2021. So
25 arguably, the rights existed from 2010 forward. And in fact,

1 that was the result. I mean, as part of the settlement is --
2 and they exist today subject to performance under the
3 agreement.

4 Q Thank you. What about the other Debtor in this matter?
5 Are you familiar with Technovative Media, Inc.?

6 A Yes.

7 Q What do you know about Technovative's business?

8 A Our understanding is that Technovative is a subsidiary to
9 Stream and is a holding company that controls various other
10 subsidiaries that are actively attempting to use Rembrandt's
11 technology without paying a license fee, without agreeing to
12 the other terms of the agreement. So that is our -- I mean,
13 we -- our understanding is that it's Technovative that controls
14 those entities.

15 Q And we'll come back to that. In the meantime, does
16 Rembrandt have a business relationship with Technovative?

17 A No, other than -- depending on how you define business
18 relationship. Our license agreement is with Stream, the top --
19 our understanding is the top entity. That's not an accident.
20 That was a purposeful -- they were purposely added as the
21 defendant in the litigation and the party with which we were
22 contracting with to resolve the agreement and the settlement.

23 Q Does Technovative have any right to use Rembrandt's IP
24 under the license agreement?

25 A Only if they're supplying product to Stream.

1 Q Are you familiar with SeeCubic, Inc., which sometimes in
2 this proceeding has been referred to as SeeCubic of Delaware?

3 A Yes.

4 Q What do you know about SeeCubic, Inc.?

5 A Our understanding is that SeeCubic, Inc., is actively
6 trying to use and is using Rembrandt technology and trying to
7 provide content for no glasses 3D using Rembrandt tools and
8 providing and offering to sell no glasses 3D TVs. They have --
9 we have provid -- and we have pursued litigation to enjoin them
10 from doing so. The -- that is, I mean, I can keep going on,
11 but that's the general gist of what I understand at this point.

12 Q And we'll speak about that, but what is your understanding
13 as to whether or not SeeCubic, Inc. is a competitor of Stream
14 TV?

15 A I think they're about as competitive as an entity can be.
16 They're actively on their website and in their PPM saying
17 they're taking over the technology of Stream TV. They're
18 working with employees that worked back in the day with 3D
19 Fusion, the predecessor to Rembrandt. They're trying to market
20 all of the same products and services as Stream. So they're a
21 competitor.

22 Q Does Rembrandt have a business relationship with SeeCubic,
23 Inc.?

24 A No.

25 Q Has Rembrandt ever had a business relationship with

1 SeeCubic, Inc.?

2 A No.

3 Q Does SeeCubic, Inc. have any right to use Rembrandt's IP
4 under the license agreement with Stream TV?

5 A No.

6 Q Are you familiar with an entity that's been referred to on
7 these proceedings as SCBV, SeeCubic BV?

8 A Yes.

9 Q What do you know about --

10 A Yes.

11 Q What -- I'm sorry to interrupt you. What do you know
12 about SeeCubic BV?

13 A It is our understanding that SeeCubic BV is a Netherlands
14 corporation that employs a number of people that used to work
15 for 3D Fusion Rembrandt and then it was controlled by Stream
16 through Technovative to design and develop various tools for 3D
17 content creation and the hardware for a no glasses, 3D TV.
18 They actively have access to Rembrandt's trade secrets and are
19 actively using technology covered in Rembrandt patents in
20 creation of various prototypes and products for Stream and --
21 well now, SeeCubic of Delaware.

22 Q Is SCBV using Rembrandt's IP with Rembrandt's blessing?

23 A Only if they're creating product for Stream. In that
24 configuration, we license Stream and they're free to have
25 product made for itself and provide products to the world.

1 They are not free, SCBV is not free to provide that to any
2 other entity, not Technovative and not even -- and certainly
3 not SeeCubic of Delaware.

4 Q I take it, Rembrandt does not have a business relationship
5 with SCBV. Is that correct?

6 A That is correct, other than as a -- that is a -- we have a
7 relationship with Stream, but not with SCBV directly.

8 Q Has Rembrandt ever had a direct business relationship with
9 SCBV?

10 A No.

11 Q Does SCBV have any right to use Rembrandt's IP under the
12 license agreement?

13 A Only to make product and provide services through Stream.
14 So no, not -- they can't provide anything to any other party
15 outside of our licensing.

16 Q Do you know Mr. Shadron Stastney?

17 A Yes.

18 Q When did you first meet Mr. Stastney?

19 A I believe the first time we met or spoke, for that matter,
20 was during the mediation process in the Southern District of
21 New York litigation between Rembrandt and Stream.

22 Q You listened to the testimony that Mr. Stastney provided
23 in connection with a TRO proceeding back on October 6th 2023.
24 Is that correct?

25 A Yes, I did.

1 Q Did you note any inaccuracies in Mr. Stastney's testimony?

2 A I did.

3 Q We'll come back to that. Now, Rembrandt filed a brief in

4 support of the Debtor's motion for a temporary restraining

5 order. Correct?

6 A Yes.

7 Q Why does Rembrandt support the Debtor's TRO motion?

8 A For a variety of reasons, but it really goes back to the

9 the core of Rembrandt's interests. The -- specifically, we're

10 looking to protect our intellectual property and to see it

11 commercialized effectively. We have licensed Stream. Stream,

12 continuing to do business in the no-glasses 3D space, is in our

13 interest. That means they can pay us. That means that Stream

14 can provide us the products we're looking to sell to other

15 customers, which quite frankly, is where we will make far more

16 revenue than from the licensees. So we are very interested in

17 not seeing the technology leak into the marketplace. We do not

18 want to see our tools and techniques, and the things that we

19 have developed, and the trade secrets go to particular

20 jurisdictions in, specifically, China. India would be, of

21 course, concern to us. So we're interested in seeing that

22 technology protected.

23 Q Are you familiar with SeeCubic Inc.'s business model?

24 A I am familiar with their business model and the private

25 placement memo they've published.

1 Q The private placement memorandum, that's also referred to
2 as a PPM, correct?

3 A Yes.

4 Q Are you familiar with the 2020 SeeCubic PPM that's been
5 submitted and marked, and introduced as an exhibit in this
6 case?

7 A Yes.

8 MR. KODOSKY: Your Honor, I am going to ask the
9 witness to take a look at what has been previously introduced
10 as Debtor's Exhibit Number 6. If I may, I've got a copy for
11 the Court in this binder that I can pass out.

12 THE COURT: Okay. Is it -- right. Well, let's start
13 -- I know I thought the parties had no objection to me looking
14 at documents prior -- but this has been admitted into evidence
15 already. All right. And is it in another binder, or you just
16 put this together for my ease?

17 MR. KODOSKY: For your ease.

18 THE COURT: All right. Let's -- anybody object to me
19 looking at it in that binder?

20 MR. COLBY: No, Your Honor.

21 THE COURT: All right. Great. So I don't have to go
22 searching through binders. Great. Okay.

23 MR. KODOSKY: And the witness, I've -- in preparation
24 for today, I had sent the witness a copy of --

25 THE COURT: He doesn't need to pull any documents.

1 That's why I asked him what did he have in front of him. Don't
2 take out anything.

3 Jon, how are we going to do this? Can we pull it up?

4 MR. EDEL: Is it the complaint?

5 MR. KODOSKY: It's Exhibit Number 6. It is --

6 THE COURT: SeeCubic, Inc. It was admitted in
7 Debtor's Cases 6?

8 MR. KODOSKY: I believe so, Your Honor.

9 THE COURT: In this proceeding?

10 MR. KODOSKY: Yes, Your Honor. And I've got a second
11 copy if --

12 THE COURT: Well, we have to have him look at it.
13 How's he going to -- had anybody through that through? Because
14 typically, when we have a Zoom hearing, we pull up the document
15 on the screen so that the witness can see it. That means you
16 don't need to see me. I don't care. Can we take me off and
17 can we add another --

18 MR. EDEL: I just don't have it. Do you have a --

19 MR. KODOSKY: I can email it to you.

20 THE COURT: Yes.

21 MR. KODOSKY: I've got a PDF that I can --

22 MR. EDEL: Yeah.

23 THE COURT: Yes. Would you? Oh, I thought -- yes,
24 no one -- PDF document. Send it to you, Jon?

25 MR. EDEL: Not from this side. We've --

1 THE COURT: Okay. Counsel, can you send all of the
2 documents that you intend to have this witness testify
3 regarding? Because the only way -- we want to make sure that
4 we are in control of the documents and that we're all looking
5 at the same documents, and that there's nothing different.

6 Yes, Jon?

7 MR. KODOSKY: I'm happy to, Your Honor.

8 THE COURT: Doing --

9 MR. KODOSKY: I would just ask for your email
10 address --

11 MR. EDEL: Share them and then --

12 MR. KODOSKY: -- and I will send those to you.

13 THE COURT: Wait, what did you say? Hold on. Hold
14 on.

15 MR. EDEL: I'm just wondering if it's easier for them
16 to share on their end.

17 THE COURT: Is it on your -- can you share it?

18 MR. EDEL: But that might complicate things.

19 THE COURT: That's going to complicate, okay. Here's
20 what we're going to do. I'm going to take a few minutes so
21 that you can email the documents to Jon, and then we'll have
22 all of them. And when I say a few minutes, I'm not even moving
23 from here. We're just going to be in recess for a few minutes
24 so that we can deal with the technical issues, okay? So we're
25 off the record for now.

1 (Record taken)

2 THE COURT: All right. You may proceed, Mr. Kodosky.

3 MR. KODOSKY: Thank you, Your Honor.

4 BY MR. KODOSKY:

5 Q Mr. Michaels, are you able to see on your screen Debtor's
6 Exhibit Number 6?

7 A Yes. Yes, I am.

8 Q Do you recognize this to be the SeeCubic 2020 PPM that you
9 had referenced before we just took this short break?

10 A Yes, I do.

11 Q If we can please take a look at page 13 of 34. And
12 specifically, what I'd like to direct your attention to, Mr.
13 Michaels, is the part of this page that begins, "Business
14 Model" in bold. If you can see that paragraph, and take a
15 moment to review it, please.

16 A Yes, I've reviewed it.

17 THE COURT: Wait a minute. Counsel, where are we at?

18 MR. KODOSKY: On page 13 of 34, which is page -- I'm
19 sorry. Jon, if you can scroll to the bottom of the page to see
20 what the page number is of this. It says 4 at the bottom, but
21 it's page 13 of 34, so --

22 THE COURT: Well, how about we use the number,
23 because this also has been -- was this file of record?

24 Apparently. All right. Page 4, business model. All right.

25 Page 4. I don't know whether it's 13 or -- well, for my

1 reference, page 4. Okay.

2 BY MR. KODOSKY:

3 Q Mr. Michaels, if you could take a moment to review the
4 business model description from the SeeCubic 2020 PPM, and
5 please let us know when you've finished reviewing that.

6 A I have finished reviewing it.

7 Q Had you seen this PPM and this business model description
8 before today?

9 A Yes, I have.

10 Q And is this the provision that, at least partly, informs
11 your understanding of the SeeCubic, Inc. business model?

12 A Yes, it is.

13 Q Thank you.

14 MR. KODOSKY: If we can please show the witness
15 Debtor's Exhibit Number 5. Previously introduced, which is the
16 -- well, I'll hold off.

17 BY MR. KODOSKY:

18 Q Do you recognize this to be the SeeCubic 2022 PPM that you
19 had referenced earlier?

20 A Yes, I do.

21 THE COURT: Which year?

22 MR. KODOSKY: 2022. Jon, I'd like to begin by
23 directing the witness to page 10 of 29.

24 THE COURT: And that is Exhibit -- what, again?
25 Five?

1 MR. KODOSKY: Yes, Your Honor.

2 THE COURT: Exhibit 5. And that is page 10 down at
3 the bottom or -- because I have PPM 9 and then -- yes, okay.

4 BY MR. KODOSKY:

5 Q You see, Mr. Philips (sic), the section that begins in
6 bold, "The Company"?

7 A Yes, I do.

8 Q Where it states, "The company was founded in 2020 by the
9 secured creditors of Stream TV Networks, Inc. to acquire
10 substantially all of the assets of Stream TV, including all
11 subsidiaries and all the technology assets." And it goes on to
12 state that, "The company's technology, when licensed to a
13 consumer device manufacturing partner, and incorporated as a
14 component of any panel device" -- and it lists, "-- television,
15 monitor, phone, etcetera, displays content in glasses-free 3D."
16 Do you see that?

17 A I do.

18 Q Is that consistent with your understanding of SeeCubic's
19 business model, where they license, or intend to license the
20 technology?

21 A Yes, it is.

22 MR. KODOSKY: If we could please take a look at page
23 28, please.

24 THE WITNESS: Are you waiting on me? I can see page
25 28, if that's the question.

1 MR. KODOSKY: I'm sorry. I am --

2 THE COURT: Wait, 28? That's a different -- Jon, are
3 we on 28?

4 MR. EDEL: I'm on 28 of 29 on the file, but we want
5 the page, actual page 28?

6 THE COURT: At the bottom.

7 MR. KODOSKY: Yes. The page 28. It would be 26 of
8 29. I'm sorry, Jon.

9 MR. EDEL: Gotcha, yup.

10 THE COURT: I mean, I just looked down at the bottom.
11 Okay.

12 BY MR. KODOSKY:

13 Q Mr. Michaels, could you please read into the record the
14 third paragraph there and the certain important transactions
15 section that begins, "The company also". Do you see that?

16 A "The company also maintains licensing arrangements for
17 various technologies and products with a variety of
18 manufacturers. Each agreement requires payment per product
19 sold or for use of technology, or -- as applicable."

20 Q How do you interpret this provision?

21 A I believe --

22 MR. COLBY: Objection.

23 THE WITNESS: -- it is my understanding upon reading
24 it that it --

25 THE COURT: Objection. Objection. Basis?

1 THE WITNESS: Sorry, I didn't hear the objection.

2 MR. COLBY: Yeah. Objection, Your Honor. Relevance.

3 The witness testified he has no -- or Rembrandt has no business
4 relationship with SeeCubic, Inc. He's reading out of a
5 document that he didn't prepare, and has testified merely that
6 he saw it. So I don't know exactly where this is going. I'm
7 trying to give Mr. Kodosky some rope, but I don't see the
8 relevance of Mr. Michaels testifying about what this document
9 means.

10 THE COURT: Counsel, response? His objection is on
11 relevance.

12 MR. KODOSKY: Mr. Michaels has already stated that he
13 is familiar with SeeCubic's business model based on these PPM
14 materials, that he has a problem with the business model, and
15 my next question is going to be what problem, if any, he has
16 with the business model and why --

17 THE COURT: Okay.

18 MR. KODOSKY: -- it resulted in litigation.

19 THE COURT: All right. Mr. Colby, withdrawing your
20 objection?

21 MR. COLBY: I would withdraw for that --

22 THE COURT: All right.

23 MR. COLBY: -- forthcoming question, Your Honor.

24 THE COURT: All right. Keep going.

25 BY MR. KODOSKY:

1 Q Mr. Michaels, what problem, if any, do you have with the
2 business model, SeeCubic, Inc. business model description, that
3 you've looked at in these PPM materials?

4 A The company's business model, as stated, requires a
5 license from Rembrandt, and I read the two sentences in this
6 third paragraph as stating that they have a license from
7 Rembrandt and Philips. Specifically, the per product sold is
8 the format of the Philips license, and the for use of the
9 technology is the format of the Rembrandt license to Stream,
10 and that I personally negotiated with Shad & Stastney, who
11 likely wrote this. So my understanding is the company is
12 falsely claiming that it has the licenses it needs when it does
13 not.

14 Q In other words, SeeCubic does not own any of the
15 technology as attempting to license the others, correct?

16 A To my knowledge, they don't own any of it. You're right,
17 but if it's .001 percent, that isn't -- they don't own the
18 technology they're referencing here, and it's necessary to
19 provide hardware, software, or content creation that was
20 developed by Philips 3D Fusion, Rembrandt, and then Stream TV
21 Networks. So --

22 Q Is it accurate to state that all business between
23 SeeCubic, Inc. and SCBV was blocked at least through September
24 20th, 2023, when Mr. Stastney was appointed as director of
25 SCBV?

1 MR. COLBY: Objection.

2 THE WITNESS: I'm sorry. I didn't follow --

3 THE COURT: I didn't follow either.

4 THE WITNESS: -- that question.

5 THE COURT: So, restate the question. Before you
6 object, Mr. Colby, he's going to restate it, because I didn't
7 understand it either. Not that I'm the witness, but I'm trying
8 to follow. What was your question, Mr. Kodosky?

9 BY MR. KODOSKY:

10 Q Was all business between SeeCubic and SCBV blocked,
11 B-L-O-C-K-E-D, at least through September 20th of '23 when Mr.
12 Stastney was appointed as director of SCBV?

13 A I think I --

14 MR. COLBY: Objection.

15 THE WITNESS: -- understand your --

16 THE COURT: Okay, wait a minute. He's objecting.

17 MR. COLBY: Well, the witness has no firsthand
18 knowledge. I don't understand the basis, how he could be
19 testifying as to a relationship or not between two companies of
20 which he's not a part, and testified as to one of them he has
21 no business relationship.

22 THE COURT: Okay. Counsel?

23 MR. KODOSKY: He does have firsthand knowledge, Your
24 Honor. He's already described what rights SCBV and SeeCubic,
25 Inc. have to use the Rembrandt IP that's been licensed to

1 Stream TV.

2 MR. COLBY: That has to do, Your Honor, with, I
3 guess, Stream TV's ability to use Rembrandt technology. The
4 question was whether or not all business was blocked between
5 SeeCubic, Inc. and SeeCubic BV. That has nothing to do with
6 Rembrandt's --

7 THE COURT: Well, I guess he can rephrase this thing.
8 Rephrase the question. I understand what he's asking. He's
9 just not stating it --

10 MR. COLBY: Okay.

11 THE COURT: -- succinctly.

12 MR. COLBY: Then --

13 THE COURT: Rephrase the question.

14 BY MR. KODOSKY:

15 Q To your knowledge, Mr. Michaels, does SeeCubic intend to
16 have SCBV supply SeeCubic's customers with Ultra D products and
17 services?

18 MR. COLBY: Objection, Your Honor.

19 THE WITNESS: That is my understanding.

20 THE COURT: Wait. He objected.

21 MR. COLBY: I don't know --

22 THE WITNESS: Okay.

23 MR. COLBY: -- Mr. Michaels can testify firsthand
24 knowledge about what SeeCubic, Inc. intends to do. He read it
25 out of this document, but so can all of us. That's not

1 firsthand knowledge. He can testify about what the document
2 says, I guess, but not as to SeeCubic's intent.

3 MR. KODOSKY: Rembrandt has sued both entities, Your
4 Honor, for exactly this purpose.

5 THE COURT: Okay. So I guess based on -- you can
6 ask --

7 MR. COLBY: I know that bringing a lawsuit gives you
8 firsthand knowledge about it, but he can testify why he's --

9 THE COURT: Counsel, I mean, just rephrase it.

10 BY MR. KODOSKY:

11 Q Do Ultra D products require a license to the Rembrandt
12 intellectual property to be made, used, sold, offered for sale,
13 exported or imported, Mr. Michaels?

14 A Yes.

15 Q Do Ultra D products require a license to the Philips
16 intellectual property to be made, used, sold, offered for sale,
17 exported or important?

18 A Yes.

19 Q Do Ultra D products require a license to the Stream TV
20 intellectual property to be made, used, sold, offered for sale,
21 exported or imported?

22 A Yes.

23 Q Do Ultra D products require a license to the Ultra D
24 Cooperatief U.A. intellectual property to be made, used, sold,
25 offered for sale, exported or imported?

1 A Yes.

2 THE COURT: Who? Ultra D Cooperatief?

3 MR. KODOSKY: U.A. Yes, Your Honor.

4 BY MR. KODOSKY:

5 Q Does SeeCubic, Inc. have a license from Rembrandt?

6 A No.

7 Q Does SeeCubic, Inc. have a license from Philips?

8 A No.

9 Q Does SeeCubic, Inc. have a license from Stream?

10 A No.

11 Q Does SeeCubic, Inc. have a license from Ultra D

12 Cooperatief U.A.?

13 A No.

14 Q Does SCBV have a license from Rembrandt?

15 A No.

16 Q Does SCBV have a license from Philips?

17 A No.

18 Q Does SCBV have a license from Stream?

19 A No.

20 Q Does SCBV have a license from Ultra D Cooperatief U.A.?

21 A No.

22 Q Prior to Mr. Stastney being appointed director of the
23 Netherland subsidiaries of Stream TV, what ability to SeeCubic,
24 Inc. have to do business with SCBV, absent the licenses, in
25 your view?

1 MR. COLBY: Objection, Your Honor.

2 THE COURT: Basis?

3 MR. COLBY: Same basis. And Mr. Michaels, I suppose,
4 can testify about what various parties may or may not be able
5 to do under the Rembrandt license, but other licenses between
6 Philips or these other entities that he's not a part of, I
7 don't think he has firsthand knowledge.

8 THE COURT: We already answered on that one.

9 MR. COLBY: Well --

10 THE COURT: This is the new question. I mean, you
11 objected and he already testified that he didn't have a
12 license. SeeCubic didn't have a license with any of the above,
13 Philips, Rembrandt, Stream, Ultra D, and SCBV, Inc. did not
14 have a license from any of the above, from my own short hands.
15 And then he went on to another question. So you didn't object
16 to those. I kind of think it's too late to object to his
17 answer, to those he's already answered. Now, there was a new
18 question that you then objected to. Now, the new question,
19 you're objecting on the basis that he doesn't have firsthand
20 knowledge with respect to that particular question?

21 MR. COLBY: Correct, Your Honor.

22 THE COURT: All right. Counsel, response?

23 MR. KODOSKY: He has already answered that --

24 THE COURT: Well, that, but this is a new question.
25 The new question was -- and I forgot what it was. What was the

1 new question that you were objecting to -- that Mr. Colby was
2 objecting to?

3 MR. KODOSKY: And I'm able to limit it -- maybe this
4 will address his objection to the Rembrandt. Without having a
5 license from Rembrandt --

6 THE COURT: Okay.

7 MR. KODOSKY: -- what ability to SeeCubic, Inc. have
8 to do business with SeeCubic BV absent the Rembrandt license?
9 It's actually the question I asked him earlier about being
10 blocked until Mr. Stastney became a director.

11 THE COURT: All right. Let's -- I mean, you're
12 trying to rephrase it. I get he objected and he's trying to
13 address that. So the question now is what, Mr. Kodosky?

14 BY MR. KODOSKY:

15 Q Prior to September 20th, 2023, when Mr. Stastney was
16 appointed a director, was SeeCubic, Inc. blocked in their
17 contract with SCBV?

18 A Yes, for the sale of a no-glasses 3D product. I mean,
19 they could sell pencils back and forth, but for the relevant
20 technology, they needed a license from all the entities you
21 mentioned.

22 Q And it's --

23 MR. COLBY: Your Honor, I wasn't quite quick enough.
24 That was the same objectionable question as before. Again, if
25 Mr. Kodosky wants to ask about the implications of a Rembrandt

1 license or not having a Rembrandt license, I think that's
2 appropriate, but asking whether or not the -- you know, such a
3 broad question -- Mr. Michaels doesn't have sufficient
4 firsthand knowledge to answer that.

5 THE COURT: Okay.

6 MR. COLBY: And I thought --

7 THE COURT: What?

8 MR. COLBY: I thought we'd agree to limit it to
9 Rembrandt, but then the question was --

10 THE COURT: Right. It was -- okay. So the objection
11 is that Mr. Michaels does not have firsthand knowledge
12 regarding the relationship between SeeCubic, Inc. and SCBV with
13 respect to, I guess, an agreement between those parties to sell
14 the technology or use the technology?

15 That was the objection, Mr. Colby?

16 MR. COLBY: Yes, Your Honor. It's Mr. Michaels would
17 seem to have a basis to testify about the implications of the
18 Rembrandt license, but not quite so broadly about the
19 relationship between the -- I'm trying to be economical in my
20 objections here, Your Honor, but at the same time, I would like
21 to keep us focused on things about which the witness has
22 firsthand knowledge.

23 THE COURT: All right.

24 MR. COLBY: And I think if the question were asked
25 about the implications of the Rembrandt licenses that were

1 properly sold is --

2 MR. KODOSKY: These relate on each other, Your Honor,
3 to the extent that you need the Rembrandt license and the
4 Stream license to be able to do business. He does have
5 firsthand knowledge regarding the Rembrandt license. He's
6 already testified to that, and I believe he's also -- I'm going
7 to be asking him what action Rembrandt took when it learned
8 that an independent director had been appointed and --

9 THE COURT: So your response is that he has firsthand
10 knowledge because Rembrandt didn't have a license with SeeCubic
11 or SCBV, that prior to that, it wasn't authorized to use the
12 license?

13 MR. KODOSKY: Before Mr. Stastney --

14 THE COURT: Just prior to that. That's all you've
15 got to -- okay. Did you -- the question is, and I think the
16 question is, that prior to 9/20/23, did SCBV or SeeCubic have a
17 license from Rembrandt or Stream to use the technology? Is
18 that the question?

19 MR. KODOSKY: The technology is the Ultra-D. And
20 it's --

21 THE COURT: The -- use Ultra-D technology.

22 MR. KODOSKY: And it's made up of licenses from
23 Rembrandt.

24 THE COURT: I get that.

25 MR. KODOSKY: From Philips.

1 THE COURT: But is that what -- so you're just
2 saying --

3 MR. KODOSKY: Stream.

4 THE COURT: -- prior to that they didn't have
5 authority, or they weren't using it? What's the question?
6 What was the -- what existed prior to 9/2023 that you're asking
7 him about?

8 MR. COLBY: Right. And my objection is to Mr.
9 Michaels testifying as to things beyond the Rembrandt
10 technology.

11 THE COURT: Okay.

12 MR. COLBY: So if the question were to be limited to
13 the Rembrandt technology licenses or lack of licenses. I have
14 no --

15 THE COURT: Well, and what --

16 MR. COLBY: -- objection.

17 THE COURT: -- about his knowledge with respect to
18 the Stream license to those -- because he already testified
19 that he knew that they didn't have a license from Stream or --
20 from Stream. He already testified that he knew that.

21 MR. COLBY: Yeah. If he has firsthand knowledge of a
22 license from Stream, that's fine. I don't think Mr. Michaels
23 has any firsthand knowledge of any relationship between, for
24 example, Philips and SCBV or SeeCubic, Inc., or as between
25 Ultra-D and SCBV. So I think if we --

1 THE COURT: Well, he's already testified regarding
2 that.

3 MR. COLBY: He --

4 THE COURT: And said it.

5 MR. COLBY: You're right. He testified what did and
6 didn't exist. He didn't actually give his basis for firsthand
7 knowledge as -- again, I'm trying to be economical in my
8 objection.

9 THE COURT: Well, counsel, you didn't object at the
10 time. I'm just saying. Like, all right. We're not going to
11 get bogged down. I mean, I already heard what I -- I mean,
12 this isn't a jury here. Can you just rephrase the question?
13 Otherwise, I'm going to sustain his objection.

14 BY MR. KODOSKY:

15 Q As a director of the Netherland subs --

16 A Uh-huh.

17 Q -- is not -- is Mr. Stastney attempting to use color of
18 law or act under a color of law to disrupt the arrangement, Mr.
19 Michaels?

20 A Yes.

21 MR. COLBY: Objection.

22 THE COURT: All right. Objection -- all right. I
23 knew you were going to object. Basis for objection, counsel?

24 MR. COLBY: If the witness has firsthand knowledge of
25 some actions, he can testify as to those. But I don't think

1 that's been established. I don't understand --

2 THE COURT: Right.

3 MR. COLBY: -- I thought we were talking about the
4 implications of the Rembrandt license, who has it and who
5 doesn't.

6 THE COURT: Well, I think -- I get what he's trying
7 to -- but you have to lay a foundation. You have to tell me
8 how he knows all of this stuff. I'm going to sustain. But you
9 need to lay a foundation.

10 BY MR. KODOSKY:

11 Q All right. Mr. Michaels, when did you learn, or did you
12 learn that SC -- or that SeeCubic, Inc. was attempting to
13 utilize SCBV inappropriately without having a license from
14 Rembrandt?

15 A Yes, we learned it from Shadron Stastney's testimony in
16 the bankruptcy and in this hearing.

17 Q What action did Rembrandt take upon learning that
18 information?

19 A It took a variety of actions, not the least of which was
20 to request more information about what the actual activities
21 were. That resulted in us getting copies of the 2022 PPM that
22 we have on -- on the screen. And it expressly states that
23 they're trying to license out our technology. Even claiming to
24 have a license to do so. So that -- that's -- and to our
25 knowledge, that has not happened yet, even though they are

1 expressly stating they intend to do so. And that's with him as
2 director of that entity, we are very concerned that they will
3 actively start transferring information and technology out to
4 parties that are unlicensed.

5 Q Let me ask you a different way, Mr. Michaels. Before Mr.
6 Stastney was appointed director on September 20th of 2023, who
7 had the authority to your knowledge to make that decision?

8 A Stream TV and specifically Matthu -- Matthu Rajan.

9 Q And at some point, did you become aware that SeeCubic,
10 Inc. and Mr. Stastney were attempting to have remove Mr. Rajan
11 removed as director of the Netherlands subsidiaries?

12 A Yes.

13 Q Did you at some point become aware of who replaced Mr.
14 Rajan as the director of the Netherlands subsidiaries?

15 A It is our understanding that there was first -- Ian Liston
16 (phonetic) who was -- I think is his name, was -- was added as
17 a receiver and then dismissed when the bankruptcy was filed.
18 And later an attorney from Jones Day was appointed by the
19 Netherlands Court as a -- as an -- the independent director.

20 Q And that's the gentlemen, his name -- do you recall his
21 name? Jasper?

22 A That sounds familiar. I wrote him an email. I'd -- I'd
23 easily be refreshed -- my recollection would be refreshed by
24 that email. But I don't recall his name exactly.

25 Q So is it fair to say that there was a period of time after

1 Mr. Rajan was removed and before Mr. Stastney was appointed
2 that there was a "independent or neutral director" making that
3 decision?

4 A Yes.

5 Q And upon learning that an independent director had been
6 appointed, what action did Rembrandt take to express his view
7 on whether or not the technology could be used?

8 A I sent the independent director an email outlining our
9 position, importantly referencing the publicly available
10 documents that went into those rights further, and specifically
11 requested that we setup a meeting or a phone call with US IP
12 Practitioners to review the situation.

13 Q And what response did you receive from the independent
14 director?

15 A The -- we received a response that -- that he had talked
16 to various people we have -- for many years accused of taking
17 our trade secrets and that we had heavily documented the
18 exchange of trade secrets with specifically Dr. Barenbrug
19 (phonetic) and had told him that they weren't using our trade
20 secrets. And that was sufficient for him, and we responded
21 then.

22 Q What was your response?

23 MR. COLBY: Objection, Your Honor.

24 THE COURT: Wait, wait, wait. Okay. Objection,
25 Mister --

1 MR. COLBY: Witness is testifying as to hearsay.
2 What somebody else told him out of court.

3 THE COURT: Okay.

4 Counsel?

5 MR. KODOSKY: Your Honor, first of all, it's not
6 being offered for the truth of the matter being asserted, and
7 I'd also like to provide the Court with a cite that hearsay at
8 the preliminary injunction stage, the Court does -- the Court
9 may rely on affidavits and hearsay materials, which would not
10 be admissible evidence. It is the --

11 THE COURT: What case is that?

12 MR. KODOSKY: *Kos Pharms*, K-O-S, Pharms --

13 THE COURT: All right.

14 MR. KODOSKY: -- P-H-A-R-M-S.

15 THE COURT: K-O-S.

16 MR. KODOSKY: I'm sorry?

17 THE COURT: K-O-S.

18 MR. KODOSKY: K-O-S space Pharms, P-H-A-R-M-S.

19 THE COURT: Oh Kos pharms. Okay.

20 MR. KODOSKY: 369 F.3d at 718. And that cite is
21 actually referenced in a Western District of Pennsylvania, June
22 9th, 2022, case opinion, styled *Not an LLC v. Bureau of*
23 *Alcohol*, Civil Action number 2:22-CV-747.

24 THE COURT: And what's the circuit for the *Kos*
25 *Pharms*?

1 MR. KODOSKY: Third Circuit, Your Honor.

2 THE COURT: What year?

3 MR. KODOSKY: I want to say that it's from 2001. But
4 if I can maybe get back to you over break?

5 THE COURT: Okay. So *Kos Pharms* cited in a case
6 called *Not an LLC* v. who?

7 MR. KODOSKY: *Bureau of Alcohol*, from the Western
8 District of Pennsylvania, June 9th, 2022.

9 THE COURT: Okay.

10 BY MR. KODOSKY:

11 Q What response --

12 THE COURT: Wait a minute, wait a minute.

13 MR. KODOSKY: Oh, sorry.

14 THE COURT: I've got to rule. I've got to rule,
15 counsel. You said that at a hearing on a preliminary
16 injunction, the Court can consider hearsay matters. You also
17 believe it's not hearsay because it's not being offered for the
18 truth of the matter, correct?

19 MR. KODOSKY: Correct.

20 THE COURT: What is it being offered for?

21 MR. KODOSKY: I'd have to --

22 THE COURT: I mean --

23 MR. COLBY: I don't feel terribly strong about this
24 objection.

25 THE COURT: Right.

1 MR. COLBY: I think the testimony on balance was
2 actually helpful to us.

3 THE COURT: Right. I mean --

4 MR. COLBY: But I would like to --

5 THE COURT: -- he spoke to someone whose --

6 MR. COLBY: Yeah.

7 THE COURT: -- his understanding in the response from
8 the independent director was that -- responded that he didn't
9 believe that they were using their technology.

10 MR. COLBY: Right. We'll take a look at the cases.
11 I do think, you know, those have not necessarily --

12 THE COURT: Other --

13 MR. COLBY: Hearsay free for all are not the rules
14 we've been living under to date in this hearing.

15 THE COURT: Right. But also, counsel --

16 MR. COLBY: I'd like to keep this focused.

17 THE COURT: -- other than what somebody else told
18 him, told the independent director. Somebody -- this other
19 doctor or whatever his name was, he could -- his understanding
20 of what the response was is sufficient. Was that -- he
21 responded, his understanding was that they didn't believe they
22 were using trade secrets.

23 MR. COLBY: Right, right. Yeah.

24 THE COURT: And that could be understanding. He just
25 couldn't tell me that -- what it says. So we'll strike the

1 portion about Mr. -- the independent director. We don't know
2 his name. We're not talking about Mr. Liston. We're talking
3 about the independent director who was a Jones Day attorney?

4 MR. KODOSKY: Jasper Berkenbosch, I believe was his
5 name, Your Honor.

6 And actually, SCBV is a Defendant in this case. And
7 so, to the extent that he was serving as an independent
8 director of one of the Defendants in the case -- party
9 admission.

10 THE COURT: That's a new one.

11 MR. COLBY: Yes, it --

12 THE COURT: What's your response to that?

13 MR. COLBY: Your Honor, I don't feel terribly
14 strongly about this because I --

15 THE COURT: Right. Because -- all right.

16 MR. COLBY: -- think the statement was helpful so --

17 THE COURT: So it's a party admission. It's a -- I
18 was going to strike the portion about who told him what,
19 because the real bottom line is, he responded, we're not using
20 your trade secrets. That was his understanding of the response
21 from Mr. Berkenbosch.

22 MR. COLBY: Correct. I'm fine with that.

23 THE COURT: Okay. All right. So -- and now that you
24 said it's a statement -- a party admission, because Mr.
25 Berkenbosch was the independent director of one of the

1 Defendants, it -- I think it can all come in, but okay.

2 So I'll admit it as a party admission and then we'll
3 move on. It was going to come in anyway, but except for that --

4 MR. KODOSKY: Thank you, Your Honor.

5 THE COURT: -- one limited portion. Go ahead.

6 BY MR. KODOSKY:

7 Q Ultimately, Mr. Michaels, what action did Mr. Berkenbosch
8 take in response to Rembrandts concerns?

9 A We -- we included the US headquarters of Jones Day, again,
10 outlining our positions and requesting a meeting. I found it
11 highly unlikely that a reputable IP firm would conduct the
12 actions that SCBV and SeeCubic were attempting. And then Mr.
13 Berkenbosch, the independent director of SCBV resigns -- well,
14 or sent a letter to the Court asking to resign. And that was
15 apparently granted.

16 Q And then after he resigned is when Mr. Stastney was
17 appointed director?

18 A Yes.

19 Q What assurances have you received from Mr. Stastney since
20 he's been appointed director that he would not act in
21 contravention of Rembrandts instructions or wishes?

22 A It's my understanding and directly from his mouth, both in
23 court and our out of court discussions that he fully intends to
24 license out the technology, including our -- what is Rembrandt
25 technology and Philips without paying any license fee to

1 Rembrandt or honoring the license in any way.

2 Q And is that one of, if not the primary reason, why
3 Rembrandt supports the Debtors Motion for a TRO?

4 A Yes, and it's why we've brought a similar action in
5 Delaware to enjoin SeeCubic from doing the same.

6 Q And that's great timing. The SeeCubic, Inc. filed a
7 response to the Debtors Motion for a TRO in this matter. It's
8 a Docket 77 on page 26.

9 THE COURT: Wait a minute. Response. Docket entry
10 what?

11 MR. KODOSKY: Docket 77. It's the SeeCubic, Inc.

12 THE COURT: In the adversary proceeding or in the
13 bankruptcy?

14 MR. KODOSKY: in the advisory, Your Honor.

15 THE COURT: Okay.

16 Response. Okay. 77 in adversary. We just want to
17 keep the record straight, because I doubt hardly it was number
18 77 in the bankruptcy. We were up to 400 or 500 or something in
19 the bankruptcy.

20 Okay. So you want us to bring that up?

21 MR. KODOSKY: No, if I can just Mr. Michaels for his
22 reaction to, in footnote 17 --

23 THE COURT: Well, can we --

24 MR. KODOSKY: -- of SeeCubic, Inc.'s --

25 THE COURT: -- see footnote 17, so we all know what

1 we're talking about?

2 Jon, can you pull that up?

3 MR. KODOSKY: And it should be on page 26, 32 of 39.

4 THE COURT: Page what?

5 MR. KODOSKY: The page number is 26 at the bottom of
6 the page. But on the top, it's page 32 of 39.

7 THE COURT: On the docket. But in the pleading
8 itself, it's page 26, correct?

9 MR. KODOSKY: That is correct.

10 THE COURT: All right. And so, you want him to
11 review footnote 17?

12 MR. KODOSKY: Yes, he had just mentioned about --
13 that he had filed a TRO against SeeCubic, among other parties,
14 in the District of Delaware. And footnote 17, this is from --

15 THE COURT: Wait a minute. Let him read it and tell
16 me what that -- does that relate to his testimony or whatever.

17 BY MR. KODOSKY:

18 Q Please take a moment, Mr. Michaels, and review footnote 17
19 there on page 26.

20 A Yes, I've read it.

21 Q My question to you was going to be, what is your reaction
22 to, do you see where it states, "The District of Delaware
23 applied this reasoning in its denial of the Motion filed in the
24 summer of 2023 of nonparty Rembrandt 3D Holdings, Ltd. for a
25 TRO against SeeCubic among parties based on similar

1 allegations." Do you see that?

2 A Yes.

3 Q The Court did not deny Rembrandt 3D Holdings, Ltd. TRO
4 Motion, correct?

5 A It did not.

6 Q In other words, this statement in the SeeCubic, Inc.
7 response is inaccurate, correct?

8 A It is with respect to the TRO Motion.

9 Q Is it accurate to state that on August 1st, 2023 -- or I'm
10 sorry, prior to that, that Rembrandt had withdrew its TRO
11 Motion?

12 A Yes, after hearing the representations by SeeCubic's
13 counsel during the bankruptcy hearing with the Court, we
14 understood that they were going to discontinue their activities
15 in the Netherlands to have their own director appointed. And
16 we wrote the Court -- the District Court in Delaware saying
17 that the basis of our TRO was no longer valid because --
18 because that -- they were discontinuing that Motion to have a
19 new director appointed.

20 Q So in other words, Rembrandt withdrew its TRO Motion based
21 on representations made by Defendants counsel in this court?

22 A Yes, well, in the bankruptcy court. I don't know if this
23 is the same -- it's a different -- I think it's under a
24 different docket.

25 Q Understood.

1 A But yes.

2 Q And then not only did they not cease and desist in their
3 efforts to take over the Netherland subsidiaries, but they
4 included this misrepresentation in their brief stating that the
5 District of Delaware denied Rembrandt's TRO, would you agree
6 with that?

7 A Yes.

8 Q Mr. Micheals, did you ever personally test Stream TV
9 products to make sure that the content was protected?

10 A Yes, I was in a room full of Rembrandt associated people
11 evaluating the Stream TV products that they had provided during
12 the mediation and one that we had purchased prior to bringing
13 the litigation.

14 Q And what did you find whenever you investigated whether or
15 not the content was protected?

16 A With respect to content being protected, we actively tried
17 to get access to the firmware and various tools that were being
18 used, especially for real time conversion. But also, evaluating
19 some of the hardware components and we could not access them.

20 We --

21 Q Do you have any personal knowledge as to whether or not
22 the content is protected now via the actions of the Netherland
23 subsidiaries?

24 A Only what I've heard testimony in this proceeding. Every
25 Stream TV product that we have reviewed in the past has been

1 protected. And while we -- we could tell that our technology
2 was being used by various techniques of providing content and
3 seeing how it was processed and then processing it through our
4 tools and it coming out the same, the -- we could tell that it
5 was being -- that our tools were incorporated. However, we
6 were not able to see the tools or reverse engineer those tools
7 from those products.

8 Q Have you personally investigated whether Mr. Stastney
9 and/or SeeCubic, Inc. have been involved with moving IP assets
10 owned by Stream TV to SeeCubic, Inc.?

11 A I have investigated that, yes, and I have seen that they
12 have done -- attempted to do so.

13 MR. KODOSKY: Your Honor, I'd like to show the
14 witness first Exhibit Number 71.

15 If I can, Kevin, get another binder with 71?

16 Permission to approach, Your Honor?

17 THE COURT: This is another binder?

18 MR. KODOSKY: Yes, Your Honor.

19 THE COURT: And have you sent those documents to

20 Mister --

21 MR. KODOSKY: Yes, I have -- Your Honor. I have.

22 THE COURT: Okay. All right. All right.

23 Any objection to that being handed up, Mr. Colby?

24 MR. COLBY: No objection to it being handed up.

25 Which document?

1 MR. KODOSKY: The second one.

2 THE COURT: Counsel, just give me a minute. I want
3 to try to organize my desk here.

4 MR. KODOSKY: No problem, Your Honor.

5 THE COURT: Okay. All right. What am I looking at,
6 counsel?

7 MR. KODOSKY: I'm sorry, Your Honor?

8 THE COURT: What am I looking at?

9 MR. KODOSKY: Exhibit 71.

10 THE COURT: Okay. Okay. All right. All right.
11 We brought that up. Go ahead.

12 BY MR. KODOSKY:

13 Q Mr. Michaels, you stated that you personally investigated
14 whether or not SeeCubic, Inc., and/or Mr. Stastney were
15 involved with moving Stream Intellectual Property IP assets
16 from Stream to SeeCubic, Inc. Do you recall testifying to that
17 just a few moments ago?

18 A Yes.

19 Q What is being shown to you on the screen is what -- a
20 document that's been marked for identification as Debtors
21 Exhibit Number 71. Do you recognize this document?

22 A Yes, I do.

23 Q Is this a document that you uncovered as part of the
24 investigation that you performed?

25 A Yes, it is.

1 Q Could you please describe for us what this document is?

2 A This is an application to register a trademark for
3 SeeCubic Inc for the mark SeeCubic.

4 Q And what was the date of this -- did you call it an
5 application?

6 A Yes, I did.

7 Q What is the date of this application?

8 A The application was filed on October 18th, 2023.

9 Q So the application was filed after this TRO was filed?

10 A Yes, it was.

11 MR. KODOSKY: If we can scroll down to the second
12 page.

13 BY MR. KODOSKY:

14 Q Do you see where it states at the top, first use anywhere
15 date?

16 A Yes.

17 Q Where it states that SeeCubic -- I'm sorry. Could you
18 please describe what it states?

19 A So the first use anywhere refers to the first time a mark
20 has been used in commerce in the sale of goods or sale of
21 services. And that date is June 1st -- it's purported to be
22 June 1st, 2020. The first use in commerce actually references
23 commerce that the federal government can regulate. So it has
24 to be interstate or international commerce, and they're saying
25 that at some point it was at least as early as December 8th,

1 2020, that it crossed state lines or international boundaries.

2 Q And you were physically present in this courtroom with us
3 during the hearing that was held on October 27th, correct?

4 A Yes.

5 Q You drove down from upstate New York to be here?

6 A Yes.

7 Q And do you recall Mr. Rajan being shown website materials
8 and news articles prior to June 1st of 2020 using the SeeCubic
9 mark?

10 A Yes, I do.

11 Q And based on that, do you believe that that first use
12 anywhere date of June 1st, 2020, is accurate?

13 A Well, it's certainly not accurate with respect to SeeCubic
14 Inc. The first use was by Stream TV and/or SC BV.

15 Q And do you see the webpage URL there of SeeCubic.com?

16 A Yes.

17 Q And the information as to who submitted this application,
18 do you see that on this second page?

19 A Yes.

20 Q Who was it submitted by?

21 A Shadron Stastney.

22 Q On behalf of SeeCubic Inc?

23 A On behalf of SeeCubic Inc.

24 Q I'd like to direct your attention to page -- the bottom of
25 page 3, under the section that begins in all bold,

1 "Declaration." Do you see where I'm referring to?

2 A Yes.

3 Q If you could please explain what this section is referring
4 to.

5 THE COURT: Wait, where are we, counsel?

6 MR. KODOSKY: I'm sorry, Your Honor. Bottom of page
7 3, top of page 4, the part that states --

8 THE COURT: Oh, declaration.

9 MR. KODOSKY: -- declaration.

10 THE COURT: Okay. Thank you.

11 THE WITNESS: This is -- the declaration filed under
12 penalty of perjury in our federal system, it's where the
13 applicant is required to make certain representations with
14 respect to their belief in their ability to register the mark.
15 This is a very important aspect of the application. In our
16 internal training, you know, for our attorneys, we have them
17 take this very seriously and it can be the basis of
18 invalidating the mark if registered if any of these provisions
19 are violated, and this frequently is used to do so. In
20 addition, the person signing the declaration is risking
21 prosecution for perjury, and there are times when that's taken
22 very seriously and in fact enforced.

23 BY MR. KODOSKY:

24 Q It's a potential criminal liability?

25 A Yes.

1 Q And here, the person signing the declaration was who? Mr.
2 Stastney? Is that accurate?

3 A Yes.

4 Q On page 4, do you see the checkmark in the box in the
5 section that says, "to the best of the signatory's knowledge
6 and belief, no other persons except if applicable concurrent
7 users have the right to use the mark in commerce either in the
8 identical form or in such near resemblance as to be likely when
9 used on or in connection with the goods, services of such other
10 persons, to cause confusion or mistake or to deceive." Do you
11 see that?

12 A I do.

13 Q Restated, is that Mr. Stastney stating to the best of his
14 knowledge and belief that, for example, Stream TV does not have
15 any right to use the word SeeCubic?

16 A That's exactly what it means. And I might add, it's not
17 just Stream. It would be SeeCubic BV. And he certainly would
18 know that they did not -- that they might have a reason to
19 register the mark as well.

20 Q And then the next box with a checkmark there, do you see
21 where it states, "To the best of the signatory's knowledge --"
22 And again, signatory would be Mr. Stastney?

23 A Yes.

24 Q "To the best of the signatory's knowledge, information,
25 and belief, formed after an inquiry reasonable under the

1 circumstances, the allegations and other factual contentions
2 made above have evidentiary support." Do you see that?

3 A Yes.

4 Q What does that -- what does that mean?

5 A That the -- and in particular with respect to when you're
6 claiming use, that you're going to be -- you're actually going
7 to be able to show the sale, a contract for sale, purchase
8 order, some product or service being exchanged in commerce
9 that's defined by our various regulations and statutes related
10 to our trademark issues. And in this case, it would also
11 reference as to whether or not there was, going up to the prior
12 paragraph, whether or not some other party had a better right
13 and had earlier use with respect to the mark. And as director
14 of SeeCubic BV, he certainly would have known that SeeCubic BV
15 had many, many years of prior use of this mark as well as
16 Stream TV using it when he was CFO of Stream TV. That would be
17 better rights than SeeCubic Inc. I mean, this is -- has to be
18 knowingly false that he filed it, in these statements.

19 Q And if he is called to testify, it would be fair
20 questioning in your view for us to ask him what evidentiary
21 support was being referenced in this box?

22 A Absolutely. In any trademark to speak --

23 MR. COLBY: Objection. Objection.

24 THE COURT: Woah, objection.

25 MR. COLBY: Objection, Your Honor. I think it's for

1 the Court to decide what's fair questioning, not Mr. Michaels.

2 THE COURT: Response? You can rephrase that.

3 Sustained, but you can rephrase.

4 BY MR. KODOSKY:

5 Q Mr. Phillips -- is it fair to ask Mr. Stastney what the
6 evidentiary support he has?

7 THE COURT: Objection.

8 MR. COLBY: Objection. Yeah, to the extent he's
9 asking for opinion testimony.

10 THE COURT: For an opinion.

11 MR. COLBY: Yeah.

12 THE COURT: Hasn't been qualified as an expert.

13 MR. COLBY: I also just don't see the point of the
14 question.

15 THE COURT: Right.

16 MR. COLBY: I mean, he can ask him --

17 THE COURT: He can ask him --

18 MR. COLBY: Right. Ask Mr. Stastney. Go ahead.

19 MR. KODOSKY: We intend to ask.

20 THE COURT: Right. But you don't have to ask him
21 whether you can ask him. You can ask me if you can ask him.
22 Move on. I'll sustain the objection.

23 MR. KODOSKY: And -- okay. Thank you, Your Honor.

24 BY MR. KODOSKY:

25 Q The next box that has a checkmark in it, Mr. Michaels, I'm

1 not going to read all of that into the record, but is that
2 referring to the potential criminal liability and the fines or
3 imprisonment that you had referred to earlier in making false
4 statements in an application?

5 A Yes. It refers to 18 USC 1001 specifically. But any
6 attorney in our office that prepared and filed such an
7 application like this, it would be grounds for immediate
8 dismissal. Zero exception. We've never -- I mean, in 40
9 something years, we've never had anybody that would have filed
10 something like this, knowing even if they believed it was
11 untrue, if there was a dispute like there is currently between
12 two companies, we would have filed a statement with the
13 application or something to indicate that other uses were
14 claiming rights to the mark. We would not have just blanketly
15 said we were entitled to this registration, absent informing
16 the patent and trademark office of the other party's rights or
17 claim to rights.

18 Q And right below those boxes with the checkmarks, do you
19 see the electronic signature of Mr. Shad L. Stastney?

20 A Yes.

21 Q CEO of SeeCubic Inc?

22 A Yes.

23 Q Dated October 18th, 2023?

24 A Yes.

25 Q Which was after the TRO motion was filed and after at

1 least two hearings were held in connection with that motion,
2 correct?

3 A Yes.

4 MR. KODOSKY: If we can please scroll down to page 6.

5 THE COURT: Hold on one second. Sorry. I'm sorry.
6 You may continue.

7 MR. KODOSKY: Thank you, Your Honor.

8 BY MR. KODOSKY:

9 Q Directing your attention to page 6 of this document, Mr.
10 Michaels.

11 A Uh-huh.

12 Q It's being shown on the screen. Do you see that?

13 A Yes, I do.

14 Q Is this the evidentiary support that was submitted by Mr.
15 Stastney and SeeCubic Inc in support of their declaration?

16 A It is. It's referred to as a specimen showing the mark in
17 use on their website. And it's -- you're required to file
18 something showing how the mark is being used in actual
19 practice.

20 Q And so the evidence that they submitted was the same
21 website materials that we looked at in the last hearing?

22 MR. COLBY: Objection, Your Honor.

23 THE WITNESS: I don't know if -- I don't recall if we
24 looked at this in the last hearing, but --

25 THE COURT: All right. Hold on. Hold on, Mr.

1 Michaels, objection. Objection.

2 MR. COLBY: Yeah. The objection is I don't think
3 that it was established -- it's been established that these are
4 the same or that Mr. Michaels can -- is in a position to do
5 that as the same website that was shown by Debtors in the last
6 hearing.

7 MR. KODOSKY: We can pull up the exhibit from the
8 last hearing and compare. There's the \$170 million language
9 that we asked Mr. Rajan about.

10 THE COURT: Wait a minute, wait a minute, we don't
11 need you to testify, counsel. All you can do is say were you
12 present at the last hearing? Did you see this exhibit? Is it
13 the same? Pull it up, unless Mr. Colby's going to say it was,
14 pull it up. If it is and you want to waste your time, go
15 ahead. Pull it up. You said it was -- what exhibit was it at
16 the last hearing? You need some time for that, counsel?

17 MR. KODOSKY: I should be able to get to it pretty
18 quickly, Your Honor. Exhibit 60 was the SeeCubic website as of
19 October 27th, 2023.

20 THE COURT: All right. So pull up Exhibit -- do we
21 have that?

22 MR. KODOSKY: If not, I can email it to --

23 THE COURT: Well, he's going to have to send it to
24 you so that he can look at it.

25 So while we're doing that, we're going to take a

1 five-minute break. Court is in recess until 12:45. Okay. I
2 only need five -- actually, I want to give you five minutes.

3 All right. I'll be back at 12:45.

4 (Recess taken)

5 THE BAILIFF: All rise.

6 THE COURT: Please be seated.

7 I took my pen? That is why I do not go back in
8 chambers. Two emergencies. And I think I left my pen. Let's
9 hope I have one more.

10 All right, counsel. Before we begin, I think there's
11 some concern about who's on -- who's observing? That right,
12 John?

13 THE CLERK: Yeah.

14 THE COURT: All right. Let's just have them identify
15 themselves, please?

16 THE CLERK: I have someone on here just labelled as
17 Creditor. Could you identify who you are, please?

18 MR. HAWKINS: Did you want my name?

19 THE CLERK: I'm sorry?

20 MR. HAWKINS: Did you want my name?

21 THE COURT: Yes.

22 THE CLERK: Well, we're trying to figure out who --

23 THE COURT: Creditor.

24 THE CLERK: -- is virtually in the courtroom, yes.

25 MR. HAWKINS: I'm just a creditor. Small creditor.

1 THE COURT: Well, what's -- what's your name, small
2 creditor? This is the judge.

3 MR. HAWKINS: John.

4 THE COURT: John?

5 MR. HAWKINS: John Hawkins.

6 THE COURT: John Hawkins.

7 MR. HAWKINS: Correct.

8 THE COURT: And okay. Who else?

9 MR. HAWKINS: I'm insignificant, Judge.

10 THE COURT: No, you're not. Everybody in my
11 courtroom is significant. I wouldn't say that you're
12 insignificant, sir.

13 MR. HAWKINS: I appreciate that. Thank you.

14 THE COURT: All right. Who else is observing?

15 THE CLERK: So I have a phone number ending in 4843.

16 THE COURT: And who is that?

17 THE CLERK: Again, phone number ending in 4843.

18 THE COURT: Can they hear us?

19 THE CLERK: They should be able to hear us.

20 I'm just going to let you know, we're probably going
21 to remove you then.

22 MR. BLUMENTHAL: Can you hear me now?

23 THE COURT: Yes. Who are you?

24 MR. BLUMENTHAL: Steven Blumenthal.

25 THE COURT: And your relationship to the case, Mr.

1 Blumenthal?

2 MR. BLUMENTHAL: I'm the CEO of Rembrandt 3D Holding.

3 THE COURT: Okay. Okay. Who else we have, John?

4 THE CLERK: A phone number ending in 9793.

5 THE COURT: Give them a little -- do you know who
6 that is?

7 MR. COLBY: I don't know the phone number. We do
8 have two colleagues observing remotely, one whose name you can
9 see, Rebecca Ritchie and also Becky Gonzalez-Rivas.

10 THE COURT: Yeah. I think we're more like who we
11 can't identify.

12 MR. COLBY: Yeah, yeah. And Ms. Gonzalez-Rivas is
13 4843. I just got confirmation.

14 THE CLERK: Oh. What is it? Gonzalez?

15 THE COURT: Okay. That's 4843. Who else we have?
16 That everybody?

17 THE CLERK: I have someone just named Steven.

18 MR. COLBY: That was Steven Blumenthal who spoke up
19 earlier, I believe.

20 THE COURT: No there's two people.

21 THE CLERK: Then I'm looking for someone just named
22 creditor.

23 THE COURT: Wait, I thought that was Mr. Hawkins.
24 Small -- he said he's a small creditor.

25 THE CLERK: Gotcha.

1 THE COURT: And then we had --

2 THE CLERK: Sorry, Mr. Hawkins.

3 THE COURT: And then we have -- so I have four people
4 so far. How many unidentified people you have?

5 THE CLERK: A phone number ending in 9793.

6 THE COURT: Hello? Maybe they -- can they -- give
7 them a time. Maybe they're on mute.

8 THE CLERK: Yeah.

9 THE COURT: Give them a chance to come off mute. Are
10 they on mute?

11 THE CLERK: Again, it's a 516 number ending in 9793.

12 THE COURT: I feel like we're at bingo. Is that
13 anybody's colleague? Does anybody recognize this number?

14 MS. BRUMME: Yes, Your Honor, I believe that's Tom
15 Warns of K&L Gates.

16 THE COURT: Well, can he not respond?

17 MS. BRUMME: He may have stepped away from the Zoom.

18 THE CLERK: It's possible.

19 THE COURT: Is that your colleague, counsel?

20 MS. BRUMME: That's Tom Warns with K&L Gates, Mr.
21 Caponi's colleague.

22 THE CLERK: That's Tom Warns, okay.

23 THE COURT: Is that your colleague? 716 -- what's
24 the number?

25 THE CLERK: That was the one ending in 9793.

1 MS. BRUMME: Yeah, he's just messaged me. He's
2 trying to respond, but we can't hear him.

3 THE COURT: That's fine. All right. Okay. Okay.

4 THE CLERK: And lastly, and I think I recognize this
5 number, though, ending in 4411? Ending in 4411.

6 THE COURT: What's the beginning? A 215?

7 THE CLERK: A 215 number.

8 THE COURT: That's not Eileen, is it?

9 THE CLERK: No, but I thought that it might be
10 Callahan.

11 THE COURT: Who?

12 THE CLERK: Mr. Callahan, but I'm not 100 percent
13 sure.

14 THE COURT: All right. Who's on -- who's 4411?

15 THE CLERK: That's the last one.

16 MR. COLBY: Your Honor, both -- it seems like Mr.
17 Warns and our colleague Ms. Gonzalez-Rivas were trying to
18 unmute to respond --

19 THE COURT: That's fine.

20 MR. COLBY: -- and weren't able to. Others may be
21 having the same issue.

22 THE CLERK: Right.

23 THE COURT: Right. That's -- okay. Can we unmute
24 441 -- that's why I was asking, can they respond?

25 THE CLERK: If they're on a phone, they're not seeing

1 the prompt to unmute off the Zoom. It's a little clunky.

2 THE COURT: But they can hear us.

3 THE CLERK: They can hear us, but they might not be
4 able to --

5 THE COURT: So if you're on 441 -- ending in 4411,
6 could you please unmute your telephone and at least advise us
7 who we are? Which is why we need to start requiring that you
8 put a name.

9 THE CLERK: Well, the problem is they beep in while
10 we're in the middle of stuff, so I'm not -- yeah.

11 THE COURT: All right. Last call, 4411.

12 THE CLERK: Should I dump them?

13 THE COURT: Dump them and they can call back.

14 THE CLERK: All right.

15 THE COURT: I mean, or they can email you. I mean if
16 it's someone -- because it's a 215.

17 THE CLERK: Right.

18 THE COURT: They can email you. They have your email
19 and Ms. Godfrey's email address to say I got kicked off. I
20 want to hear, okay. All right.

21 MR. ALEXANDER: Your Honor, I think we can see all
22 the names. I saw Mr. Crawford, who's a party. Mr. Wallace is
23 Rembrandt.

24 THE COURT: Right. It was only the people who did
25 not have identifications that we wanted to know who they were,

1 only because they're not in the courtroom and I can't see them.

2 Yes, counsel?

3 MS. BRUMME: I believe 215 ending in 4411 is Mr.

4 Callahan.

5 THE CLERK: I thought so, damn.

6 THE COURT: Well, he didn't answer. Did you kick him
7 off?

8 THE CLERK: Yes.

9 THE COURT: He's going to have to call back. Sorry,
10 Mr. Callahan -- Mr. Callahan is upstairs.

11 THE CLERK: I was going to say, he's got to walk down
12 a block or whatever.

13 THE COURT: Come take the elevator down unless he's
14 working from home. I don't know. I don't know their schedule.
15 They could be working from home because our staff rotates also
16 and they work what two days remotely, three days remotely?

17 THE CLERK: Yeah, two.

18 THE COURT: And in the mornings, I actually do my
19 hearings telephonically and if I come in, I come in for the
20 afternoon. Or unless today, I come in for the morning.

21 All right. You may proceed --

22 THE CLERK: I'm sure we're doing him a favor.

23 THE COURT: What?

24 THE CLERK: I'm sure we're doing him a favor.

25 THE COURT: I'm sure.

1 Mr. Kodosky, you may continue.

2 MR. KODOSKY: Thank you, Your Honor.

3 BY MR. KODOSKY:

4 Q Mr. Michaels, before we took a break, we were looking at
5 what has been marked for identification as Debtor's Exhibit
6 Number 71, page 6 of 6.

7 A Yes. Yes.

8 Q Which is the evidentiary material submitted by Mr.
9 Stastney and SeeCubic Inc in support of their trademark
10 application?

11 MR. KODOSKY: I'm sorry, John. If we can go back to
12 Exhibit 71?

13 THE COURT: Oh, we're back to 71.

14 THE CLERK: 71.

15 MR. KODOSKY: Page 6 of 6? There we go.

16 THE COURT: Page 6.

17 MR. KODOSKY: And I had made the representation that
18 these materials were the same website materials that we had
19 looked at in the last hearing. Over break, I was incorrect
20 about my exhibit reference number. It was Exhibit 61, not
21 Exhibit 60. But we now have Exhibit 61 on the screen and if we
22 can please scroll down to the third page. Right there.

23 BY MR. KODOSKY:

24 Q Do you see the third page of Exhibit 61 to be able to
25 compare it with the sixth page of Exhibit 71, Mr. Michaels?

1 A Yes.

2 Q And does that appear to be the same materials?

3 A Yes, it does.

4 MR. KODOSKY: Staying on Exhibit 71, if we can scroll
5 below a little bit further.

6 BY MR. KODOSKY:

7 Q We're next going to see the picture of the astronaut that
8 we had seen on Exhibit 5 earlier today from the 2022 PPM. Do
9 you see that astronaut?

10 A I do.

11 THE COURT: Wait a minute. The astronaut on exhibit
12 -- on the snow -- astronaut -- is that an astronaut on the
13 snowboard? Where am I at? Okay. Is that a snowboard? I
14 mean, that's what I would call it. I don't know. Maybe it's
15 an electronic something. Okay. So we're looking at the
16 astronaut on page --

17 MR. KODOSKY: The cover page of Exhibit 5. The
18 SeeCubic Inc 2022 private placement memorandum.

19 THE WITNESS: Yes.

20 THE COURT: Wait a minute. Exhibit 5, you said?

21 MR. KODOSKY: Yes, Your Honor.

22 THE COURT: Of which PPM?

23 MR. KODOSKY: 2022. And then back to Exhibit 71.

24 The last piece of evidentiary support they submitted, below the
25 astronaut picture. I'm sorry, if we can scroll below the

1 astronaut picture, there's a quote there.

2 BY MR. KODOSKY:

3 Q "Quite frankly, 3-D glasses have never failed to be
4 anything but a headache inducing, slightly blurry mess for me.
5 That might be why a recent demo of a new glasses free 3-D TV
6 blew me away. It just works." Do you see that, Mr. Michaels?
7 That quote from ARS --

8 A Yes, I do.

9 MR. KODOSKY: If we go back to Exhibit 61, John, page
10 7. This is the SeeCubic.com website on page 7 -- right there.

11 BY MR. KODOSKY:

12 Q Do you see that same quote? The "Quite frankly, 3-D
13 glasses have never failed to be anything but a headache
14 inducing, slightly blurry mess for me. That might be why a
15 recent demo of a new glasses free 3-D TV blew me away. It just
16 works." Do you see that, Mr. Michaels?

17 A Yes.

18 Q So the same quote from the SeeCubic website was submitted
19 by Mr. Stastney and SeeCubic Inc on October 18th, 2023, as part
20 of their trademark application?

21 A Yes.

22 Q And you were in court at the last hearing when --

23 A Yes.

24 Q -- we established that this quote was actually written
25 about Stream TV and SeeCubic and not SeeCubic Inc. Do you

1 recall that testimony from Mr. Rajan?

2 A Yes. Yes, I do.

3 Q Thank you.

4 MR. KODOSKY: Move to admit Exhibit 71, Your Honor.

5 THE COURT: Any objection, counsel?

6 MR. COLBY: No, Your Honor.

7 THE COURT: All right. Exhibit 71, which is the
8 application, right?

9 MR. KODOSKY: Correct.

10 THE COURT: Admitted.

11 (Debtor's Exhibit 71 admitted into evidence)

12 THE COURT: Okay.

13 MR. KODOSKY: Next, if we can take a look at Exhibit
14 77, what has been marked for identification as Exhibit 77. If
15 we can scroll to the second page.

16 BY MR. KODOSKY:

17 Q Do you recognize this document, Mr. Michaels?

18 A Yes.

19 Q What is it?

20 A It is a application to register a trademark, or a service
21 mark filed on October 18th, 2023, by SeeCubic Inc.

22 MR. KODOSKY: Sorry, Your Honor. Exhibit 78 is the
23 next document that I intended to show this witness.

24 THE COURT: 78?

25 MR. KODOSKY: Apologies, yes.

1 THE COURT: Not 77?

2 MR. KODOSKY: Correct.

3 THE COURT: Which appears to be the same as 71.

4 MR. KODOSKY: Correct.

5 THE COURT: Okay. Exhibit 78, okay.

6 BY MR. KODOSKY:

7 Q Mr. Michaels, you are being shown what has been marked for
8 identification as Debtor's Exhibit Number 78. Do you recognize
9 this document?

10 A Yes, I do.

11 Q What is it?

12 A It is a trademark -- or an application to register a
13 trademark or service mark filed on May 26th, 2023. The mark is
14 for SeeCubic Labs. The owner of the mark is purported to be
15 SeeCubic Inc.

16 MR. KODOSKY: And if we can scroll down to show who
17 signed the declaration on page 4 of 5.

18 BY MR. KODOSKY:

19 Q Who submitted this?

20 A Shad Stastney.

21 Q After having made the same representations by checking the
22 boxes above his electronic signature?

23 A Yes.

24 MR. KODOSKY: Move to admit, Your Honor.

25 THE COURT: Any objection, Mr. Colby?

1 MR. COLBY: No, Your Honor.

2 THE COURT: So D-78 admitted.

3 (Debtor's Exhibit 78 admitted into evidence)

4 MR. KODOSKY: Next, we'd like to ask Mr. Michaels to
5 please take a look at the document that has been marked for
6 identification as Debtor's Exhibit Number 72.

7 BY MR. KODOSKY:

8 Q You recognize this document, Mr. Michaels?

9 A I do.

10 Q Is this a document that you had uncovered as part of your
11 investigation?

12 A Yes. It's a -- do you want me to go onto what it is?

13 Q Yes, sir.

14 A This is the coversheet that's filed when recording an
15 assignment of a trademark filed with the patent trademark
16 office. And it becomes a public record of the transfer.

17 Q And what is the date of this document?

18 A The -- the document itself, the coversheet was prepared
19 and filed on February 16th, 2022, and alleges to be recording a
20 document executed on December 8th, 2020.

21 Q And are you able to tell us who filed this document?

22 A Yes. I -- you can go down and it -- it'll show that. The
23 person submitting it was Shad Stastney.

24 Q And what trademarks is this document related to?

25 A If you go down, there'll be a schedule. But it has a

1 number -- Ultra D if you go down it'll show the --

2 Q Actually, I'm -- if we can go back up, I believe it was on
3 page 1. Property numbers? Total --

4 A Yeah. Property numbers -- it'll be under property
5 numbers, three. So in this case, it was SeeCube and Ultra --
6 two different files for SeeCube and Ultra -- and then another
7 one for Ultra D.

8 Q And so if you could briefly explain what this document is
9 attempting to do?

10 A It is recording the assignment of intellectual property
11 from -- this indicates in this case, three trademark registry -
12 - two trademark registrations and one trademark registration
13 application. The trademark registration application is the
14 first one, where it just lists the serial number and that was
15 for a mark owned by Stream transferring to SeeCubic Inc. Then
16 the next one is the registration for -- registration for
17 SeeCube. And even though it's the same mark, you can have
18 different registrations for different classes of goods and
19 services. And then finally, Ultra D was being transferred from
20 Stream to SeeCubic.

21 Q And what support -- what evidentiary support was submitted
22 by Mr. Stastney and SeeCubic Inc in support of this purported
23 assignment?

24 A The omnibus agreement that was later invalidated by the
25 Delaware Supreme Court.

1 Q So this was dated February of 2022. You were present
2 during the last and previous hearings when the June 15th, 2022,
3 Delaware Supreme Court opinion was referenced invalidating the
4 omnibus agreement, correct?

5 A Yes, I was. Yes.

6 Q And so in other words, this was filed by Mr. Stastney and
7 SeeCubic Inc approximately four months prior to the omnibus
8 agreement being invalidated?

9 A Yes.

10 Q As part of your investigation, did you uncover any
11 documents showing that any reverse action was taken by Mr.
12 Stastney and/or SeeCubic Inc after the Delaware Supreme Court
13 issued its opinion on June 15th of 2022?

14 A No, there are none filed with the patent trademark office.
15 They would have shown up in the same search that uncovered this
16 one.

17 MR. KODOSKY: Move to admit, Your Honor.

18 THE COURT: Any objection?

19 MR. COLBY: No, Your Honor.

20 (Debtor's Exhibit 72 admitted into evidence)

21 MR. KODOSKY: I'd next like to show Mr. Michaels what
22 has been marked for identification as Debtor's Exhibit Number
23 74.

24 BY MR. KODOSKY:

25 Q Do you recognize this document, Mr. Michaels?

1 A Yes.

2 Q Is this a document that you uncovered as part of your
3 investigation?

4 A Yes.

5 Q Can you please explain what it is?

6 A It is also a recording of a -- in this case, a security
7 interest in the underlying property identified therein. It
8 records a security interest provided by SeeCubic Inc to Hawk
9 Investment Holdings Limited.

10 Q What was the date that this was recorded?

11 A June 15th, 2022.

12 Q So the same day that the Delaware Supreme Court issued an
13 opinion invalidating the omnibus agreement, SeeCubic Inc filed
14 an assignment of the SeeCube and the Ultra D -- I'm sorry, a
15 security interest in the SeeCube and the Ultra D to Hawk
16 Investment Holdings Limited? Is that accurate?

17 A Yes. If you page down a bit --

18 MR. COLBY: Objection.

19 THE COURT: Wait a minute. Wait a minute.

20 Objection.

21 MR. COLBY: Objection, Your Honor.

22 THE WITNESS: Oh, I'm sorry.

23 MR. COLBY: I believe Mr. Kodosky previously
24 referenced the June 15th date. There's also an execution date
25 of June 11th.

1 THE COURT: Well, he said when it was filed.

2 MR. KODOSKY: Recorded.

3 THE COURT: Recorded.

4 MR. KODOSKY: Correct.

5 MR. COLBY: Right. So I just want to make sure
6 we're --

7 THE COURT: Well, he said recorded. I know there's a
8 difference between both of these and when they were executed
9 and when they were filed.

10 MR. COLBY: Thank you.

11 THE COURT: All right. All right. And you can point
12 out when you cross-examine when they were executed. But he was
13 clear when they were -- when it was filed.

14 All right. Go ahead.

15 BY MR. KODOSKY:

16 Q Mr. Michaels, you were answering?

17 A If you page down on the document, it'll show the effected
18 properties. And it's the same -- same properties.

19 Q And, who are the attorneys listed there in terms of having
20 -- would the attorneys there have prepared this assignment
21 document?

22 A I don't know if they prepared the assignment document. We
23 do know that they filed the -- they were the ones that recorded
24 the document with the patent and trademark offices. They're
25 listed as the correspondence address and the name of the

1 submitter is Alison Lasher, who is identified as being
2 associated with Scadden.

3 Q So this assignment was recorded the same day that the
4 Delaware Supreme Court opinion was issued. Did your
5 investigation uncover any reverse action taken by Scadden or
6 SeeCubic Inc or Mr. Stastney or Hawk after June 15th, 2022? In
7 other words, reassigning it back to Stream TV?

8 A My search was to look at all transactions related to these
9 marks, and there's no reversal of this transaction and it would
10 have shown up in my search if there had been one.

11 MR. KODOSKY: Move to admit Exhibit 74, Your Honor?

12 THE COURT: Any objection?

13 MR. COLBY: No objection.

14 THE COURT: Okay. Admitted.

15 (Debtor's Exhibit 74 admitted into evidence)

16 MR. KODOSKY: Next ask to show Mr. Michaels what has
17 been marked for identification as Debtor's Exhibit Number 73.

18 BY MR. KODOSKY:

19 Q Do you recognize this document, Mr. Michaels?

20 A Yes.

21 Q What is it?

22 A This is what is referred to as a statement of use. And
23 it's filed with the patent and trademark office at various
24 times to affirm that the mark is being used in commerce that
25 the federal government can regulate, and to show the nature of

1 that use as being consistent with the registration application
2 or registration.

3 MR. KODOSKY: If we can scroll to page 5.

4 BY MR. KODOSKY:

5 Q I'm sorry. What trademark is this referencing?

6 A The SeeCube.

7 MR. KODOSKY: If we can please scroll to page 5 of 8.

8 THE COURT: Did somebody come on? Did somebody
9 leave?

10 THE CLERK: Callahan came back in.

11 UNIDENTIFIED SPEAKER: -- Callahan came back, and
12 this is someone named Patrick Miles.

13 THE COURT: All right. And who's he? Mr. Miles, who
14 are you associated with? Hello? Anybody know who Patrick
15 Miles is?

16 MR. COLBY: My guess is that it is a Patrick Miles
17 who is or was an investor, is an investor in Stream TV and
18 SeeCubic.

19 UNIDENTIFIED SPEAKER: He just hung up.

20 THE COURT: Okay. I mean, I can't see who comes and
21 goes in the court. If you're here, I'm going to assume that
22 you have some interest. But our goal is to gatekeep. Again
23 because we don't want people who have no interest just
24 listening in and -- I mean, they can because it's open to the
25 public but typically we'll know who they are. And we don't

1 anybody disrupting so we're keeping everybody on mute.

2 Okay. You may continue. I apologize. This is D73,
3 counsel, you were asking Mr. Michaels questions regarding?

4 BY MR. KODOSKY:

5 Q Yes. If -- on page 5 of 8, if you're able to tell us who
6 signed the declaration making the same representations that Mr.
7 Stastney had made earlier on this document.

8 THE COURT: Page 5 of 8?

9 THE WITNESS: Yes. This was signed by --

10 THE COURT: Wait a minute.

11 THE WITNESS: I'm sorry, was that an objection?

12 THE COURT: Okay, the --

13 MR. KODOSKY: Declarations.

14 THE COURT: -- declarations?

15 MR. KODOSKY: Yes, Your Honor.

16 THE COURT: Okay.

17 BY MR. KODOSKY:

18 Q Who signed this declaration, Mr. Michaels?

19 A Raja Rajan as chief operating officer of Stream.

20 Q And what is the date that he signed it?

21 A This was back in March 28th of 2018.

22 Q And if we scroll to page 6 of 8, it appears there some
23 materials that were submitted along with this, pages 6, 7. Do
24 you see those materials?

25 A Yes, I do.

1 Q And does that indicate to you -- what does that indicate
2 to you?

3 A These are specimens showing the actual use and in somewhat
4 of an ideal specimen. And it is showing the mark being used on
5 the box and the actual product itself, which is what the patent
6 trademark is looking for. It's indicating the source of the
7 goods. That's its primary functionality in term of a trademark
8 or service mark. In this case a trademark. And this is the
9 back of the TV showing SeeCube (sic) being used and then the
10 box it came in. That's the classic way a trademark is used.

11 Q So whereas SeeCubic, Inc., and Mr. Stastney submitted
12 website materials containing quotes written about Stream TV,
13 when Stream TV was filing their materials, they actually
14 included pictures of the product in the box and the mark being
15 used, correct?

16 A Yes.

17 MR. KODOSKY: Move to admit Debtor's Exhibit Number
18 73, Your Honor.

19 THE COURT: Any objection?

20 MR. COLBY: No objection, Your Honor.

21 THE COURT: Admitted.

22 (Debtor's Exhibit 73 admitted into evidence)

23 BY MR. KODOSKY:

24 Q Next ask that Mr. Michaels be shown what has been marked
25 for identification as Debtor's Exhibit Number 80. Do you

1 recognize this document, Mr. Michaels?

2 A Yes, I do.

3 Q What is it?

4 THE COURT: Hold on.

5 MR. KODOSKY: I'm sorry, Your Honor.

6 THE COURT: Okay. What is it? Go ahead.

7 BY MR. KODOSKY:

8 Q What is it, Mr. Michaels?

9 A This is the -- a copy of the registration certificate for
10 SeeCube.

11 Q What's the date of this document?

12 A This was registered on June 5th, 2018.

13 MR. KODOSKY: Move to admit, Your Honor.

14 THE COURT: Any objection?

15 MR. COLBY: No objection, Your Honor.

16 THE COURT: Okay.

17 (Debtor's Exhibit 80 admitted into evidence)

18 BY MR. KODOSKY:

19 Q Shifting gears, Mr. Michaels. What interaction, if any,
20 have you had with the Receiver, Mr. Liston, in this case?

21 A We reached out to Ian Liston in a variety of ways. One,
22 wanted to express our rights as we understood them in hoping to
23 enter into a productive conversation with respect to providing
24 the use of the TV's. Secondly, we reached out with a specific
25 project we were working on, and we offered to pay the

1 production costs of setting up an entire line to start
2 fulfilling our needs for, our need/hope for the TV units. This
3 would be a cost completely born by Rembrandt. We received zero
4 response to both inquiries.

5 Q And who -- if you're able to say, I don't know if you're
6 able to say or if it would be violating any confidentiality
7 provisions, but are you able to say who the Rembrandt proposal
8 was with, whose companies?

9 A We were -- yes, I can. It was -- we were looking to do a
10 project with James Cameron and the associated companies that
11 managed some of their 3D creation content. And we were looking
12 to create a series of hardware and content solutions that would
13 be used in both provision of the 3D content he creates, but
14 also to advertise it in movie theaters with the no glasses 3D
15 TV.

16 Q Is that the same James Cameron who directed the movie
17 Titanic and the move Avatar and so forth, Terminator?

18 A Yes.

19 Q And I'm sorry, what response did you receive from the
20 Receiver in regards to your proposal?

21 A Silence. Nothing.

22 Q Again, shifting gears. The Defendants have noted that
23 they intend to call Bart Barenbrug as a rebuttal witness in
24 this matter. Do you know Mr. Barenbrug?

25 A I've never met him. But I certainly know of him and have

1 read his declarations and numerous email interactions with
2 Steven Blumenthal.

3 Q What declaration are you referring to?

4 A He filed a declaration in 2017 in the Southern District of
5 New York action, the *Rembrandt v. Stream*. He was also a
6 defendant in that case.

7 MR. KODOSKY: Would ask that Mr. Michaels be shown
8 what has been marked for identification as Debtor's Exhibit
9 Number 84.

10 THE COURT: Is this another binder?

11 MR. KODOSKY: I apologize, Your Honor. We've got a
12 hard copy.

13 THE COURT: Have you sent that to --

14 MR. KODOSKY: Yes, Your Honor.

15 THE COURT: Okay.

16 MR. KODOSKY: Yes, Your Honor.

17 THE COURT: All right, because mine went up to 80. I
18 just wanted to make sure. And have you shared that with Mr.
19 Colby?

20 MR. KODOSKY: Yes, Your Honor. Permission to
21 approach?

22 THE COURT: Yes. All right.

23 BY MR. KODOSKY:

24 Q Mr. Michaels, you're being shown what has been marked for
25 identification as Debtor's Exhibit Number 84. Do you recognize

1 this document?

2 A Yes, I do.

3 Q What is it?

4 A This is the declaration of Bart Barenbrug filed in the
5 action brought by Rembrandt against Stream and the other named
6 Defendants, the Rajan's, Walter Roelen, Bart Barenbrug, Peter
7 Roelen, and Hans Zuidema. This was filed on February 6th,
8 2017.

9 Q Can you please point us to the provision of this
10 declaration pertaining to a nondisclosure agreement that you
11 had referenced earlier?

12 A Yes. It's paragraph 7. He -- I mean, basically this
13 entire thing is untrue. But it says, "During my time with my
14 discussions with 3D Fusion Corp, paren, I was never employed by
15 the company, end paren. I did not enter into a nondisclosure
16 agreement NDA with a New York Company or negotiate such an
17 agreement in New York. I do recall reviewing a draft NDA. I
18 have never -- I never received an employment contract with 3D
19 Fusion EUBD. And to the best of my knowledge, the DNA was
20 never fully consummated. I never received or acknowledged
21 receipt of an executed DNA."

22 MR. KODOSKY: Move to admit, Your Honor.

23 MR. COLBY: Objection, Your Honor. I think it's
24 hearsay. Plus Mr. Barenbrug will be here to testify himself.

25 THE COURT: All right. Counsel, hearsay.

1 MR. COLBY: I also don't see the relevance of it to
2 the present TRO motion.

3 MR. KODOSKY: And to the hearsay, Your Honor, I did
4 promise to get back to you with a case cite for that Kos Pharms
5 case over break. It's 369 F.3d --

6 THE COURT: Wait a minute. Wait a minute. Let me go
7 -- well, you just can give -- give me the name again. Which
8 was the name of the case?

9 MR. KODOSKY: The name of the case is Kos Pharms --

10 THE COURT: Versus?

11 MR. KODOSKY: It's Kos Pharmaceuticals Inc., versus
12 -- I'm going to pronounce it Andrx, A-N-D-R-X, A-N-D-R-X
13 Corporation. It's a May 24th, 2004 3d Circuit opinion with a
14 case cite of 369 F.3d 700.

15 THE COURT: Okay. And it is 3d Circuit what?

16 MR. KODOSKY: May 24th, 200 --

17 THE WITNESS: Four.

18 MR. KODOSKY: Four.

19 THE COURT: And that addresses the issue of hearsay
20 materials in a preliminary injunction hearing?

21 MR. KODOSKY: Thus formal evidentiary requirements
22 applying in --

23 THE COURT: Preliminary injunction.

24 MR. KODOSKY: It was also a trademark infringement
25 case, Your Honor.

1 THE COURT: And the court said what because my law
2 clerk is out on another meeting, so. Oh, he's back. Perfect
3 timing because there was a case that they cited and I said,
4 well, you're going to have to tell me what it says because my
5 law clerk is not here. He's out on another meeting.

6 MR. ZAHRALDDIN: Your Honor -- this is Zahralddin. I
7 think in order -- instead of just whispering to Mr. Kodosky.
8 The reason this is relevant is there's been testimony here that
9 everything is fine as long as the folks as SCVB are handling
10 the trade secrets. The trade secrets, as the testimony will
11 show and as the documents will show, have been in the past
12 mishandled by the same people at SCBV (sic) that are still
13 there. The same engineers that were there before. So it's
14 entirely relevant to hear about these same trade secrets, the
15 Rembrandt Trade Secrets and the Stream Trade Secrets through
16 Mr. Michaels who is worried obviously that his trade secrets
17 will be misused as are we worried that they're being misused.

18 THE COURT: Let me just say this. The focus of this
19 TRO as I understand it is to say you want a restraining order
20 saying don't use -- not don't use. Don't license or use our
21 technology. Our meaning Stream and Rembrandt's technology that
22 apparently was somebody else's technology that is now somebody
23 else's technology. All of which doesn't look good to me, but
24 I'm going to keep that comment to myself. About, you know,
25 who's using what and who's using whatever.

1 But in any event, you're saying it's relevant because
2 you believe that these people in the Netherlands because that's
3 -- and I don't mean to say these people in a bad way. But the
4 folks, that might be a better word. The folks in the
5 Netherlands are using or plan to use technology that they
6 shouldn't be using, or licensing, not using because I'm not
7 saying -- I haven't heard anything that says they can't use it.
8 But they can only use it for -- at least the allegation from
9 Rembrandt and Stream is they could only use it for a specific
10 purpose. And you believe that they are going to use this for
11 some unallowed purpose.

12 MR. ZAHRALDDIN: Well, we've heard testimony to that
13 effect, Your Honor, from Mr. Stastney.

14 THE COURT: Well, Mr. Stastney hasn't testified yet.
15 But you believe you heard it from him in the Netherland
16 proceedings, no?

17 MR. ZAHRALDDIN: Oh, no. He testified, Your Honor.
18 He did. He testified on October and indicated that -- that was
19 the most recent issue that we had was with --

20 THE COURT: Well, was that in the other hearing?

21 MR. KODOSKY: No.

22 MR. ZAHRALDDIN: No.

23 MR. COLBY: Your Honor, Mr. Stastney was called as
24 part of the Debtor's other case.

25 THE COURT: As of cross?

1 MR. COLBY: Part of the Debtor's.

2 MR. KODOSKY: Part of the Debtor's yeah.

3 THE COURT: Listen, these -- no offense, these
4 hearings -- I just said that to my law clerk. This is all
5 starting to blur together --

6 MR. COLBY: Understand.

7 THE COURT: -- because I've had so many -- and I'm
8 glad you guys are keeping it straight. And I'm sure that if I
9 go back and think about it I will. But this TRO hearing, Mr.
10 Stastney was called as of cross, correct?

11 MR. COLBY: Right.

12 MR. ZAHRALDDIN: Yes. He was part of our -- one of
13 our witnesses and --

14 THE COURT: Right. And you believed that his
15 testimony at that time --

16 MR. ZAHRALDDIN: He indicated that there was some
17 sort of sublicensing protection that would allow him to use the
18 technology through the SCVB. This is directly relevant because
19 the folks at SCVB have committed trade secret violations in the
20 past, have been the subject of the original -- the same people,
21 including Mr. Barenbrug, if I'm pronouncing his name correctly,
22 and that's why this is relevant testimony. It is simply to
23 show that that testimony may not be as stalwart as we would --
24 they'd like it to be.

25 THE COURT: Do you want to try and impeach Mr.

1 Barenbrug before -- Barenbrug --

2 MR. ZAHRALDDIN: I don't believe it's impeachment,
3 Your Honor. I believe we are asking Mr. Michaels what has
4 happened in a prior case where Mr. Barenbrug -- it's not our
5 fault that they chose the guy who --

6 THE COURT: All right. Keep the commentary. I don't
7 need to hear that.

8 MR. ZAHRALDDIN: I'm just explaining that it's not
9 our choice to put Mr. Barenbrug up. Mr. Barenbrug happens to
10 be the person primarily who where the evidence was shown or
11 will show signed a declaration here in the United States saying
12 that he did not sign an MDA. And we would like to walk through
13 the rest of this to show the MDA that he signed.

14 THE COURT: So what's -- is Mr. Michaels a -- is he
15 rebutting something? What's he doing?

16 MR. ZAHRALDDIN: He's simply showing that Mr.
17 Barenbrug, a former engineer at 3D Fusion, an engineer --

18 THE COURT: Well, he says he wasn't an engineer, and
19 he said he didn't have an MDA.

20 MR. ZAHRALDDIN: It's interesting because there's a
21 -- here's a signed employment agreement.

22 THE COURT: Oh, I -- okay.

23 MR. ZAHRALDDIN: That's what we would like to show,
24 Your Honor. That's why it's relevant.

25 THE COURT: Why -- okay. Are you anticipating -- I

1 mean, I get it. I get the question is -- I mean, if Mr.
2 Barenbrug --

3 MR. COLBY: You nailed it, Your Honor. You nailed
4 it.

5 THE COURT: Barenbrug comes and testifies, and he
6 says all these things and you got signed documents, why do I
7 need Mr. Michaels to tell me anything because you can ask him,
8 did you sign this?

9 MR. ZAHRALDDIN: I'm not worried about that, Your
10 Honor. He may never ask him that question and they cancel him.

11 THE COURT: Well, then you can ask him.

12 MR. ZAHRALDDIN: Well, he may never show up if --
13 once this is shown.

14 THE COURT: Well, that's their problem.

15 MR. ZAHRALDDIN: But it's our problem if we can't get
16 in the evidence in our case in chief. Our case in chief was
17 responding to Mr. Stastney and his allegation that everything's
18 fine if it goes over to the engineers at the SCVB because
19 they're protect the licenses and the technology.

20 THE COURT: And so you're rebutting Mr. Stastney's
21 testimony that these people at -- I mean, these folks at SC,
22 SB, SCVB are protecting the license because they're not doing
23 anything untoward. And your response is that the people at S -
24 - you want Mr. Michaels to testify that no, they're not
25 protecting it. And they're not protecting it because they've

1 done these things in the past. And is that past behavior? Is
2 that MO? I don't know what that -- I mean, listen. I don't
3 know.

4 MR. COLBY: Your Honor, I think there's an overarch
5 of the larger overarching problem with this, which is that
6 we've gotten really far removed from what a TRO or a
7 preliminary injunction is supposed to be about. It's supposed
8 to be about the potential for immediate. And the Debtor's have
9 the burden of showing that there is going to be an immediate
10 irreparable harm. What they're now saying is we should be
11 granted this injunctive relief because Mr. Barenbrug and others
12 are careless. And so, something bad might happen. That's
13 essentially what they're trying to say. They're trying to
14 impugn their character as stewards of technology of the
15 confidentiality of technology. And therefore, you know, we
16 should get injunctive relief.

17 THE COURT: Well --

18 MR. COLBY: That's just on its face fails the test
19 that's required for --

20 THE COURT: Well, I'm not quite sure if it's that --
21 as that limited as you're saying. Because what I'm
22 understanding them to say is we're going to have irreparable
23 harm because these people in charge of our technology are not
24 protecting it and they haven't in the past. So that's the
25 indication that they're not protecting it. And we're going to

1 suffer harm because they're not protecting it. That's -- I
2 mean, it's not as limited as you're saying, which is that they
3 might. They're saying they didn't do it and we don't believe
4 they're doing it now and we're going to be irreparably harmed.

5 MR. COLBY: There's a number of issues with that.

6 THE COURT: Woah. I was talk -- you'll get a chance.
7 I'm having a conversation with Mr. Colby here.

8 MR. COLBY: There's a number of issues with that.
9 Including that these are the same engineers and it's the same
10 operation that Stream TV itself, the Debtor's owned and
11 operated prior to Judge Laster's opinion in 2020. And
12 subsequent to the reversal under the Delaware Supreme Court.
13 So it's just like --

14 THE COURT: Well, I mean, all of this -- listen.
15 I'll probably say something I'll regret. But this seems to be
16 that engineer from here, to here, to here, to here and -- never
17 mind. Never mind. I just don't look to -- never mind.

18 MR. ZAHRALDDIN: Your Honor --

19 THE COURT: Go ahead.

20 MR. ZAHRALDDIN: -- I have to say, let me respond to
21 just a couple things. The law does not say, it's not
22 characterized irreparable harm the way Mr. Colby set it up.
23 We've cited plenty of cases in this district that all say the
24 same thing. Any showing of a harm to a trade secret that it
25 may be revealed is irreparable. Any showing of it is

1 irreparable. We have those cases.

2 So it's overstating. This is not -- when you're
3 talking about intellectual property and trade secrets, which
4 are not protected like patents or copyrights or trademarks,
5 there's a very significant issue. Very significant issue with
6 irreparable harm. It is immediate. And, you know, Mr. Kodosky
7 can discuss those a little bit further if you'd like us to.

8 THE COURT: Well, no. I mean, we're going far a
9 field because the issue that is -- the precise evidentiary
10 issue is whether Mr. Michaels should be allowed to testify
11 regarding Mr. Barenbrug's relationship with the IP at issue.
12 I'm going to call it IP. I don't know if that's the trademark.
13 Is it trademark, IP? What's the correct --

14 MR. ZAHRALDDIN: It's a trade secret, Your Honor.

15 THE COURT: Trade secret.

16 MR. ZAHRALDDIN: The nondisclosure agreement is what
17 the employee would be forced to keep the secret --

18 THE COURT: Right.

19 MR. ZAHRALDDIN: -- the trade secret secret.

20 THE COURT: But was that issue in this TRO hearing is
21 that it's technology that allegedly belongs to the Debtor that
22 they believe is at risk because the entity in the Netherlands
23 is likely to do something with the Debtor's asset that they're
24 not allowed to do. And that the Debtor will suffer irreparable
25 harm if they're not prevented from doing whatever it is you

1 think they're going to do to harm, or they are doing with
2 respect to that technology. And with respect to Mr. Michaels'
3 testimony, his testimony is that Mr. Barenbrug did not protect
4 this in the -- I guess did not protect it when he was working
5 at Rembrandt and can't be trusted to --

6 MR. ZAHRALDDIN: Well, and at Stream, Your Honor.
7 Because this all is the timeline, and these are materials that
8 Mr. Michaels got through a discovery when he sued Stream
9 originally.

10 THE COURT: And sued Mr. Barenbrug.

11 MR. ZAHRALDDIN: Excuse me?

12 THE COURT: And sued Mr. Barenbrug.

13 MR. ZAHRALDDIN: Yes, and all the other engineers
14 that were involved in the --

15 THE COURT: That allegedly were working for this
16 other company and somehow ended up at Stream and now it's
17 SeeCubic.

18 MR. ZAHRALDDIN: Which then led to the settlement
19 that we're talking about and that's why it's relevant. It's
20 relevant because it shows that Mr. Barenbrug and the other
21 engineers have -- well, I --

22 THE COURT: Can't be trusted with the IP trade --
23 they could be trusted when they were at Stream.

24 MR. ZAHRALDDIN: That's I believe --

25 MR. COLBY: It's like a character point, Your Honor.

1 It's tempting to get in at a TRO based on impugning --

2 THE COURT: Well --

3 MR. ZAHRALDDIN: It's a violation of the trade
4 secret.

5 THE COURT: Well, I'm seeing about impugning. The
6 question for me -- again, I have my own thoughts on this stuff
7 and I'm trying to restrain myself from saying something that's
8 likely irrelevant. It's highly irrelevant, just my view of
9 this. It's not going to have anything to do on how I decide.
10 But what I'm hearing is that we're going to be harmed because
11 the engineers who are in charge and who are supposedly
12 protecting -- and that's the word. I'm going to use supposedly
13 or allegedly, protecting our trade secret technology are not
14 protecting it and can't -- and Mr. Stastney testified that they
15 are and there's nothing going on. And they're saying, no, you
16 can't because these people -- these people that I'm -- I hate
17 using that word, these people, but the engineers have a
18 propensity not to protect trademark, which -- anyway, so that's
19 what I'm hearing.

20 MR. COLBY: Yeah. Based upon an NDA with -- or -- or
21 not, and a declaration in a different case from five years ago.
22 I think what -- what -- what the appropriate focus should be is
23 what protections are in place now and -- and the --

24 THE COURT: Well, the protection that I heard was in
25 place from Mr. Stastney was that, you know, I guess the

1 engineers, or whoever's working on protecting these assets, and
2 their position is these people can't -- whoever you're relying
3 on can't be trusted to protect it.

4 MR. COLBY: And that's -- that's the point. It's
5 attempting to obtain injunctive relief based on
6 the -- impugning the reputation --

7 THE COURT: You don't have to impugn anyone's
8 reputation. You can see what they did or didn't do and tell
9 me, no, I'm not doing that.

10 MR. COLBY: And that's -- and that's -- and that's
11 what the focus should be, not -- not attempting to -- and it
12 is. They're saying that they can't be trusted. That is
13 impugning somebody's --

14 THE COURT: Well, I'm not saying they can't be
15 trusted. They're saying this is what they did in the past. We
16 believe they're doing it right now. Is that impugning your
17 reputation? Maybe it is. I don't know.

18 MR. COLBY: It's impugning their character as
19 stewards of trade -- of trade secrets. It's attempting to get
20 injunctive relief now based on what -- what Debtors say is
21 their -- their character or -- for protecting trade secrets.

22 THE COURT: Is that their character or their history?

23 MR. COLBY: Either -- that -- that's what --

24 THE COURT: That's a little different.

25 MR. COLBY: That's what character testimony is.

1 That's what character evidence is.

2 THE COURT: Well, no. Character testimony isn't
3 necessarily your history. I mean, it could include that, but
4 I'm not quite -- and you may be right, Mr. Colby. I'm trying
5 to figure out --

6 MR. COLBY: It's also -- it's -- it's an allegation.
7 It's a claim that they made in the past in a lawsuit that was,
8 you know, dismissed.

9 THE COURT: Settled. No. It was settled.

10 MR. COLBY: Well, the -- the claim for violation of
11 an NDA, I believe, was the contract claim that was settled.
12 That was between Stream TV and -- that was between Stream TV
13 and Rembrandt, not Mr. Barenbrug.

14 THE COURT: Well, I don't know.

15 MR. COLBY: That was --

16 THE COURT: I don't know because --

17 MR. COLBY: That was Stream TV and Rembrandt.

18 THE COURT: -- I don't have -- I don't have the
19 settlement, unless someone put it in evidence, because it could
20 be and I just don't recall.

21 MR. ZAHRALDDIN: Your Honor, let me -- let me stop
22 Mr. Colby before he misrepresents something yet again about
23 that --

24 THE COURT: All right. Ba, ba, ba --

25 MR. ZAHRALDDIN: No, no, because this is important.

1 THE COURT: Wait a minute.

2 MR. ZAHRALDDIN: This is important. They keep on
3 saying --

4 THE COURT: Wait. Wait, wait, wait. Wait, wait,
5 wait. I have told all of you guys, I don't like the, you know,
6 misrepresent -- he maybe -- he is not recalling correctly,
7 he's -- something. But don't -- don't throw those words out.
8 I don't like those words.

9 MR. COLBY: And particularly, it wasn't even -- I --
10 that was very uncivil, and I've done my best to be civil.
11 That -- it wasn't even that I misrepresented something or
12 misstated something. It was that I was about to. And
13 that's -- that's --

14 THE COURT: All right. All right.

15 MR. COLBY: -- frankly, the same point they're making
16 about Mr. Barenbrug.

17 THE COURT: So let's just get to the point. What was
18 it that you wanted to tell me, because I said I thought it was
19 settled, and Mr. Colby said only with Stream. And you're going
20 to tell me something else.

21 MR. ZAHRALDDIN: Well, Your Honor, the part that was
22 dismissed without prejudice was the patent infringement piece,
23 because the Supreme Court decided the Hartland (phonetic) case
24 and said that all patent infringement cases had to be refiled
25 in the place of incorporation, which would be Delaware.

1 THE COURT: Okay.

2 MR. ZAHRALDDIN: They instead, as I think has been
3 produced in evidence in this Court before, have said, no, we
4 didn't pursue that, we didn't pursue anything further because
5 we had a settlement. We had a settlement so we don't pursue
6 the patent cases. It's been put into papers without the
7 qualification of without prejudice multiple times.

8 THE COURT: Okay.

9 MR. ZAHRALDDIN: So that is a misrepresentation.
10 That is not a disparaging comment. It is a less -- a less than
11 accurate --

12 THE COURT: All right.

13 MR. ZAHRALDDIN: -- portrayal of a dismissal.

14 THE COURT: Okay. So it's a less -- let's use
15 the -- let's keep to the phrase.

16 MR. ZAHRALDDIN: We can tone it down if you'd like
17 but --

18 THE COURT: Yes.

19 MR. ZAHRALDDIN: -- that would offend most people.

20 THE COURT: Less than accurate representation. And
21 maybe the -- maybe because they didn't think -- I mean, to me,
22 it was without prejudice. I would put it in there because it
23 means something. Maybe there's a reason they didn't. I don't
24 know. But I would not jump to the conclusion that it -- I
25 could -- I don't know about counsel, but I could come to find

1 that it was a mis- -- it wasn't even a -- we just didn't think
2 it was relevant. I don't know. But the whole point is don't
3 use misrepresentation. Use inaccurate, not a complete
4 representation. The word misrepresentation just has so much --

5 MR. ZAHRALDDIN: I will -- I will --

6 THE COURT: Please use -- that's for everybody.

7 MR. ZAHRALDDIN: But I'll make sure I do that in the
8 future. I just know that oftentimes, because it's such a large
9 record, a lot of things slip by --

10 THE COURT: Well, they might slip by for now, but if
11 it's on the record, I will read the transcript.

12 MR. ZAHRALDDIN: Okay.

13 THE COURT: Don't ever believe, because I don't
14 recall the specifics, that when it comes time to decide, that
15 I'm not going to go over these 50 transcripts. This is not
16 something that I'm just going to do off the top of my head.

17 So you can point out and say, well, I'd like to make
18 the record complete because Mr. Colby did not give a complete
19 representation --

20 MR. ZAHRALDDIN: I will do so in the future.

21 THE COURT: All right. Then -- and Mister -- that's
22 for everybody in here. So Mr. Zahralddin, you want to point
23 out that there were some things omitted by Mr. Colby that would
24 give a more complete representation of what occurred with
25 respect to the --

1 MR. ZAHRALDDIN: The settlement.

2 THE COURT: -- action in --

3 MR. ZAHRALDDIN: The settlement.

4 THE COURT: -- in the Southern District of New York,
5 which I think you've already said --

6 MR. ZAHRALDDIN: Yes, ma'am.

7 THE COURT: -- that it was a case that required the
8 filing in Delaware. It was dismissed without prejudice.

9 MR. ZAHRALDDIN: Yes, ma'am.

10 THE COURT: And the parties resolved the entire
11 litigation, which is why you didn't go to Delaware. "You"
12 meaning --

13 MR. ZAHRALDDIN: Not me, but Stream obviously and --

14 THE COURT: Stream -- not Stream --

15 MR. ZAHRALDDIN: Stream and Rembrandt --

16 THE COURT: -- Rembrandt did not go.

17 MR. ZAHRALDDIN: -- decided to settle, yes.

18 THE COURT: Okay.

19 MR. ZAHRALDDIN: Which I believe was in testimony in
20 prior hearings --

21 THE COURT: And what SeeCubic --

22 MR. ZAHRALDDIN: -- here.

23 THE COURT: -- would not know because it didn't even
24 exist at the time.

25 MR. ZAHRALDDIN: Well, SeeCubic wouldn't have because

1 Mr. Stastney is the one who signed that agreement.

2 THE COURT: Okay.

3 MR. ZAHRALDDIN: And Mr. Stastney was the CFO at that
4 time of Stream.

5 MR. COLBY: So --

6 THE COURT: So Mr. Stastney, who is now the --

7 MR. ZAHRALDDIN: CEO of SeeCubic.

8 THE COURT: Would have had that information.

9 MR. ZAHRALDDIN: Yes, he would have.

10 THE COURT: In his -- in his capacity as an officer
11 of --

12 MR. ZAHRALDDIN: He was, I think, vice chair of the
13 board as well as CFO of Stream at the time, and he's the one
14 who executed the settlement agreement, which we've heard
15 testimony on before in here.

16 MR. COLBY: Yes. Your Honor, if I might? All of
17 this was covered in great detail the first time Mr. Michaels
18 testified and when Mr. Stastney testified on the Hawk motions.
19 I don't have --

20 THE COURT: Do you really think I recall that?

21 MR. COLBY: Yeah. No, no.

22 THE COURT: Come on, Counsel.

23 MR. COLBY: That's why I'm trying to --

24 THE COURT: And nobody has said they wanted to
25 incorporate by reference any of that testimony. And to be

1 honest, you know, I don't recall it. I recall some of it.

2 That's why I'm asking, did I see this settlement agreement?

3 MR. COLBY: And that's why, Your Honor, that's why I
4 bring it up. Not to suggest that you should have recall of it
5 sitting here today, but simply to say that I don't know why we
6 seem to have a controversy over this. The record -- it's in
7 the record. It's abundantly clear --

8 THE COURT: But it's not a record --

9 MR. COLBY: -- what happened.

10 THE COURT: -- I'm going to look at for this.

11 MR. COLBY: Right.

12 THE COURT: Nobody's asking me to go -- because it
13 would be inappropriate for me to say, well, I heard this in
14 here and I'm going to incorporate it here without having the
15 parties address it. I mean, it's not a continuation of the
16 same matter. They involve the same parties but they're a
17 different record. And I don't -- unless the parties ask me to,
18 I do not go look at records in a prior matter. Now, some
19 things I just may recall and I might drop a footnote saying the
20 Court, you know, based on my understanding, understood
21 something.

22 MR. COLBY: Well, I think we're talking about it
23 primarily as background for the evidentiary objection for Mr.
24 Michaels' testimony today, not because it's relevant to the
25 current motion.

1 THE COURT: Right.

2 MR. COLBY: That's why we're talking about it.

3 So -- but my broader point was it's all in the -- it's all in
4 the record. I don't think we agree about the facts. The facts
5 are the facts.

6 THE COURT: But the facts for me today --

7 MR. COLBY: Right.

8 THE COURT: -- are whether the technology, trademark,
9 IP, whatever the appropriate term, is at risk for the Debtor
10 being harmed. And that is what I am trying to ultimately
11 decide, at least with respect to a TRO. Okay. And your
12 position is it's irrelevant because what Mr. Bru -- Barenbrug
13 did in -- what year is this? 2017. How many years is that?
14 Eight years ago? No. That's eight and seven is '25. Six
15 years ago? Or soon to be -- soon to be seven.

16 MR. ZAHRALDDIN: Soon to be seven.

17 THE COURT: Soon to be seven years ago has no bearing
18 on what -- whether the assets, the trademark of the Debtor is
19 at risk.

20 MR. COLBY: Correct, Your Honor. And suffice it to
21 say there was a dispute between Rembrandt and Stream and,
22 apparently, Mr. Barenbrug in that 2017 time period. There was
23 a dispute. Rembrandt has made allegations. The litigation,
24 what happened happened. Those are just simply facts.

25 The point that I'm making is that that's not -- I'm

1 sure there's, like everything else, two sides to that story.
2 We don't need to litigate it here today. It's irrelevant
3 and -- it's irrelevant to try to litigate it for its own sake
4 and it's not relevant to the present question about whether or
5 not, you know, injunctive relief is warranted now here today
6 with respect to those assets in the Netherlands.

7 THE COURT: Well, I understand why the Debtors think
8 it's relevant because they think their IP, trademark, trade
9 secrets are not going to be protected because one of the
10 persons in -- who's allegedly protecting it -- and I don't know
11 Mr. Barenbrug's position, but he's an engineer, I gather. He's
12 one of the engineers working presently on the disputed IP.
13 Okay.

14 And the question becomes then, is this person who is
15 charged, presumably charged, with protecting the assets of the
16 Debtor can be -- will protect -- will protect that. And
17 they're saying, no, you can't, see what he did.

18 And so my question again, is this something better
19 left to confronting Mr. Barenbrug about when he testify -- if
20 and when he testifies. Their position is if you do not call
21 Mr. Barenbrug, they will be unable to show that the people who
22 are in charge of protecting the IT weren't going to protect it.
23 That's their position.

24 MR. COLBY: Understand that.

25 THE COURT: And so what I have to figure out is do I

1 let it in now, because you may not call Mr. Barenbrug --

2 MR. ZAHRALDDIN: Or he may make himself unavailable
3 once he has --

4 THE COURT: Well, we don't know what he does or won't
5 do. The question becomes, is how then do they show that it
6 might not be protected by these -- this engineer? That's the
7 issue for me. All this other stuff about who did what in New
8 York or said what, this is their attempt to show that it's not
9 being protected and it's not because they're relying on people
10 who have not protected trademarks in the past.

11 MR. ZAHRALDDIN: And, Your Honor, you were talking
12 about it, is this a character issue or is it an acts issue?
13 It's an acts issue. And that's something I wasn't able to yet
14 address and I'd like to discuss it with you.

15 THE COURT: Okay. You believe it's --

16 MR. ZAHRALDDIN: Every single time that you have a
17 trade -- there is a common fact pattern with trade secret
18 violations. Trade secrets can't be protected like other parts
19 of intellectual property. So what normally happens is a bunch
20 of employees will leave one place, go to the next --

21 THE COURT: Uh-huh.

22 MR. ZAHRALDDIN: -- and then it will be a contract,
23 and whatever's not covered by contract is covered by the trade
24 secret laws. Usually the contract contains a non-disclosure
25 agreement or confidentiality provision. That's the basis for

1 the fact pattern. Oftentimes, it's hard to figure out whether
2 or not they've actually done this or not.

3 In this case, it's not that difficult to see this
4 because we have a prior act. And, again, these are the same
5 engineers that went from Philips to 3D Fusion, then to Stream.
6 And it was --

7 THE COURT: And then from Stream to where?

8 MR. ZAHRALDDIN: Well, right now they're still
9 supposed to be with Stream, but they have an interim CEO who's
10 taken over our subsidiary.

11 THE COURT: Oh, okay. Okay.

12 MR. ZAHRALDDIN: So --

13 THE COURT: So they are now -- whoa, whoa, whoa.

14 MR. ZAHRALDDIN: So they're now at the SC BV.

15 THE COURT: They're at SC BV, who was related
16 to -- is some --

17 MR. ZAHRALDDIN: It was, yeah, an indirect
18 subsidiary.

19 THE COURT: -- related to -- to Stream.

20 MR. ZAHRALDDIN: Yes.

21 THE COURT: They are -- I don't know how -- I mean,
22 I'm not -- nobody's saying they're not related to Stream,
23 unless you're telling me they're not, Mr. Colby, because I see
24 you moving around over there.

25 MR. COLBY: They are. Sorry, I'm -- I'm very

1 interested to respond but I'm doing my best to not.

2 THE COURT: The problem, as I see it, is that --

3 MR. ZAHRALDDIN: Your Honor, we had to discipline
4 these engineers once before. It resulted --

5 THE COURT: I don't want to hear all that.

6 MR. ZAHRALDDIN: No, no. I'm saying it resulted in a
7 billion dollar claim in this case with Rembrandt.

8 THE COURT: Oh, I -- well -- well, if we're really
9 going to be frank, they came from Rembrandt and then --

10 MR. ZAHRALDDIN: And they --

11 THE COURT: Ah, ah, ah, ah --

12 MR. ZAHRALDDIN: You're right.

13 THE COURT: They had some association with Rembrandt,
14 whether they were employees, consultant, something.

15 MR. ZAHRALDDIN: We believe --

16 THE COURT: Wait, wait, wait. And Mr. Rajan, I
17 definitely recall this, said that when they got sued, they knew
18 that the people, the engineers that were now related to -- in
19 the company with -- however they were related to Stream, they
20 knew that they had some relationship, and he said some other
21 word, and I think he may have said were engineers at Rembrandt,
22 but I'm going to use the word association, affiliation, some
23 relationship with Rembrandt. And during the course of the
24 litigation, they came to understand that that association was
25 much more than what they understood.

1 MR. ZAHRALDDIN: Yes, ma'am.

2 THE COURT: Okay? And then -- then -- then, you
3 know, you kind of -- never mind.

4 MR. ZAHRALDDIN: But that's -- that's exactly it,
5 Your Honor.

6 THE COURT: But they are now these same engineers who
7 had some -- at least during the course of the litigation,
8 according to Mr. Rajan, had some affiliation with Rembrandt,
9 were now affiliated with Stream and now SC BV and now SeeCubic.

10 So you're now saying these same people who went from
11 here to here to here to here, we don't believe our -- our
12 Stream is being protected. That's what I get out of this.

13 MR. COLBY: Understand, Your Honor, a couple of
14 things. I think this demonstrates why -- two primary points
15 really. I think this demonstrates why we should limit the
16 degree to which the parties, the Debtors, are trying to address
17 their current request for a TRO by litigating issues that were
18 a part of litigation five years ago, and that was resolved.
19 Like I said, there are, I'm sure, two sides to that story. I'm
20 resisting the urge to litigate it here just by --

21 THE COURT: Well, I'm not --

22 MR. COLBY: -- testifying from the podium.

23 THE COURT: -- quite sure that the parties are trying
24 to litigate it, but go ahead.

25 MR. COLBY: Well -- and so it's -- it's -- I think

1 we'd all be well served by staying focused on, you know, the
2 current issue at hand, protections around trade secrets at
3 SeeCubic BV and not trying to relitigate these old claims.

4 Secondly, these -- just -- the -- I'm not sure that
5 the facts are quite as they've been portrayed, at least in the
6 following sense. These individuals had been at SeeCubic BV
7 since 2011. They were at Philips prior to that. There's not
8 been hopscotching from entity to entity. They've been at
9 SeeCubic BV since 2011.

10 THE COURT: I'm not saying hopscotching.

11 MR. COLBY: And -- and -- so I -- and then to Mr.
12 Zahralddin's point about trade secret cases where employees
13 move from one company to another, that's not happening here.
14 There's no claim that the engineers are about to leave to go
15 to --

16 THE COURT: I'm not talking about them leaving, and
17 I --

18 MR. COLBY: Right.

19 THE COURT: I'm just repeating the history as has
20 been set forth in this company as to the evolution of these
21 engineers --

22 MR. COLBY: And --

23 THE COURT: -- and where they've gone -- and where
24 they started, where they went, and where they are.

25 MR. COLBY: And I'm not sure that that's -- I'm not

1 sure that that evolution is accurate. I don't think it is, but
2 I'm -- again, I'm trying not to relitigate all that here.

3 THE COURT: Well, you're telling me -- so you're
4 saying Mr. --

5 MR. COLBY: But they've been at -- they've been at
6 SC SeeCubic BV since 2011.

7 THE COURT: That's nice.

8 MR. COLBY: The ownership by virtue of this
9 litigation and the omnibus agreement has changed, but they've
10 been at SeeCubic BV since 2011. This is not a case where
11 employees have moved to a new entity or have plans to move to a
12 new entity. They've been there doing the same work while
13 people fight about who -- who owns them.

14 THE COURT: Well, I think it's more than they fight
15 about who owns it. These engineers are engineers. They
16 probably just want to do their work, leave me alone and then
17 pay me. Okay? I suspect that's what they want.

18 MR. COLBY: Probably.

19 THE COURT: Okay. But, Counsel, you cannot, unless
20 somebody's telling me I have a misunderstanding of what the
21 testimony in -- was here, was that these people were at
22 Michaels -- I mean at Philips, Philips, Rembrandt claimed they
23 worked for their predecessor, whatever their name is because I
24 cannot recall --

25 MR. ZAHRALDDIN: 3D Fusion.

1 THE COURT: -- 3D Fusions, which they said they
2 didn't, they ended up at Stream, Rembrandt sued Stream saying
3 these people really work for us and took our technology to you.
4 I think that was the -- I haven't read the complaint, but based
5 on the testimony that I've heard, that was what was going on.

6 MR. COLBY: No. There was no trade secret claim in
7 that case.

8 THE COURT: Whatever -- whatever --

9 MR. COLBY: It was a patent case.

10 THE COURT: Whatever it was, the claim from Rembrandt
11 is that you took our information and went to Stream with it.
12 Mr. Rajan's testimony was, during the course of the litigation,
13 we claim to understand that that was a more -- I'm not sure
14 what word he used, deeper, maybe, relationship between these
15 engineers and Rembrandt. And then these engineers ended up at
16 SC BV. They went from here to here. Sometimes maybe you reap
17 what you sow.

18 But in any event, these same engineers have had a
19 relationship with -- with Philips, perhaps with Rembrandt, and
20 definitely with Stream and Stream's subsidiary -- whatever --
21 however related company or something. Or they have a
22 relationship, maybe not directly with Stream, but a company
23 related to Stream because it's owned by a subsidiary who's a
24 subsidiary of Technovative, who's owned by Stream, or whatever.
25 But they're not some unrelated, unknown entity. And that's the

1 course of where they've gone. Okay?

2 And what I'm hearing is Mr. Barenbrug in particular,
3 you know, said one thing here and we believe he's not going to
4 protect us because he did this. I don't know if he is or
5 isn't.

6 So we have spent more time than necessary trying to
7 figure out whether I'm going to allow Mr. Michaels testify
8 regarding what Mr. Barenbrug did in a hearing and whether, in
9 fact, Mr. Baren- -- what he really, I'm sure, wants to show is
10 that Mr. Barenbrug actually had some sort of -- whatever that
11 relationship was, and we -- and they -- and that somehow will
12 show that if Mr. Barenbrug is one of the people who's supposed
13 to be protecting it, he likely will not. That's what this is
14 about.

15 And you're saying, who cares what he did in '17.
16 That didn't mean he's doing it today. Is that what
17 you're -- even if -- even if we find that what he did in '17 is
18 correct, what does that have to do with today?

19 MR. COLBY: It's an allegation from 2017.

20 THE COURT: Well, it's an allegation that this is
21 what he said and we have some document. Again, the question
22 becomes: Do we just wait until Mr. Barenbrug testifies and
23 then they confront him with this? And what happens if he
24 doesn't? How do they then prove that the engineers who were
25 supposed to be protecting this can't be trusted to protect?

1 Then they go call Mr. Barenbrug? Maybe you call him. I don't
2 know.

3 MR. COLBY: I think, Your Honor, I mean, that's part
4 of the problem with the -- that's part of the problem with
5 where we are on this request for injunctive relief to begin it.
6 It's incumbent upon the Debtors to establish that there is a
7 serious risk of irreparable, imminent harm and -- and they
8 really have not, other than Mr. Rajan's sort of say-so, they've
9 really not put forth any evidence that there is a lack of
10 protections around the trade secrets at --

11 THE COURT: Well, they want to with the information
12 about Mr. Barenbrug.

13 MR. COLBY: And -- and the idea that somebody was on
14 the receiving end of allegations related to a patent seven
15 years ago, therefore, warrants immediate injunctive relief now
16 is what I'm suggesting, it's insufficient, it's not relevant.
17 We should be focused on what's here.

18 THE COURT: Well, we're not -- okay.

19 MR. COLBY: Or we're going to end up relitigating the
20 2017 case --

21 THE COURT: Well, we're not relitigating anything.

22 MR. COLBY: -- and the history of the employees and
23 why they left Philips and the fact that Philips was getting out
24 of business. I mean, there's a whole other --

25 THE COURT: I don't need to know -- the whole point

1 of the matter is the history is what the history is, and I'm
2 going to -- I'm going to see it the way I see it. And that's
3 just the way it is.

4 MR. ZAHRALDDIN: Your Honor, we're not trying to show
5 any of that. We just want to show that we have two documents,
6 one of which has already been partially discussed where Mr.
7 Barenbrug says under oath A, B, C, D, E, and F. And --

8 THE COURT: And what relevance does it have --

9 MR. ZAHRALDDIN: It's relevant because, Your Honor,
10 unfortunately, maybe Mr. Colby doesn't remember his own
11 comments from 10 minutes ago, he says this was not a trade
12 secret case. As I explained, all trade secret cases are
13 non-disclosure agreement contract disputes unless you're going
14 under the statute, one statute of which had no private right of
15 action and didn't exist at that time, which is a defend trade
16 secret act. You have trade secrets that you go under state law
17 under statute and then you always have a contractual dispute.
18 That is what was focused on in this case. So it was
19 completely -- all that was left was a trade secret case. So
20 this is completely -- maybe a failed --

21 THE COURT: Inaccurate description.

22 MR. ZAHRALDDIN: An inaccurate description. So what
23 we're simply trying to do is show that this was an act by this
24 engineer who is now here, and I'm going to give him the benefit
25 of the doubt even though --

1 THE COURT: Even -- no. No comment.

2 MR. ZAHRALDDIN: He doesn't know who he's supposed to
3 be listening to at this point. We don't even know if we can
4 call him since he's one of our employees, because we have an
5 interim director over there at this point in time.

6 THE COURT: Well, apparently the interim director
7 didn't -- couldn't force them to testify.

8 MR. ZAHRALDDIN: Apparently.

9 THE COURT: Apparently he couldn't because the only
10 reason they agreed to testify was because their personal
11 attorneys -- personal attorneys directed them to do so, which
12 is why I was a little irate because I couldn't understand why,
13 if these parties were so -- wanted to bring these people, why
14 they didn't go to the company and ask the company.

15 MR. ZAHRALDDIN: And the --

16 THE COURT: I already said what I was going to.
17 Don't get me started on that again.

18 MR. ZAHRALDDIN: I just don't know who their personal
19 attorneys are, Your Honor.

20 THE COURT: I don't know either. I have no -- and I
21 was assured that their personal attorney was not the company's
22 attorney.

23 MR. ZAHRALDDIN: Or SeeCubic's attorney or
24 Mr. Stastney's attorney or anybody else.

25 THE COURT: Well, I didn't know --

1 MR. ZAHRALDDIN: We weren't sure of any of those
2 things.

3 THE COURT: -- that they were there -- they weren't
4 the company's. I didn't ask anybody if they were
5 Mr. Stastney's. I didn't ask anybody if they were SeeCubic
6 Inc.'s. I didn't ask anybody if they were Hawk's, SLS, or
7 anybody else's attorney. I understood that they were their
8 personal attorney, having nothing to do with any of the
9 parties, and that they had engaged their own counsel for their
10 own reason. I guess they felt they had to, whatever, given
11 what was going on in the Netherlands. That is what I
12 understood.

13 I'm not going to rehear that because I'm just going
14 to be a little more annoyed and I -- I -- the way I am is I say
15 what I have to say the day I say it. You come back and talk to
16 me tomorrow and I'll be going, well, that was yesterday, and I
17 want to leave that for last Wednesday.

18 MR. ZAHRALDDIN: I've -- I wholeheartedly agree. And
19 we simply want to be able to show what was done by the prior
20 engineers. It happens to be it's also Mr. Barenbrug. And we
21 also have information as to why he doesn't want to come here.
22 It has nothing to do --

23 THE COURT: Well, I don't know why he don't want to
24 come. That has nothing to do with whether you get to put in
25 the information about who's supposed to be protecting this -- I

1 don't know what you guys want to call it now. Trade secrets,
2 is that --

3 MR. ZAHRALDDIN: It's intellectual property. It's
4 our intellectual property.

5 THE COURT: I said IP but I was heard -- said no,
6 it's trade secret. I don't know what --

7 MR. ZAHRALDDIN: It's --

8 THE COURT: Whatever it is, the asset, I'm going to
9 call it the asset of the Debtor that you're trying to protect,
10 which I understand, I'm sure there's a disagreement, but what
11 I'm hearing, that the Debtor has a license with Rembrandt and
12 that's the asset the Debtor wants to protect.

13 MR. ZAHRALDDIN: As well as our trade secrets which
14 are --

15 THE COURT: Whatever else that is.

16 MR. ZAHRALDDIN: On top of that, yes.

17 THE COURT: But that's the asset. And you believe
18 it's not being protected because the people in charge of
19 protecting it -- which, really, I'm not sure how the engineers
20 are in charge because they're going to do what they're told.

21 MR. ZAHRALDDIN: That's not --

22 THE COURT: They're not the ones running out here
23 supposedly licensing this.

24 MR. ZAHRALDDIN: No. But that's the problem, Your
25 Honor. That's what they've seen. Mr. Theune and all the other

1 folks are all engineers.

2 THE COURT: I don't want to hear about them.

3 MR. ZAHRALDDIN: They're all engineers, though, Your
4 Honor. There's nobody running the place other -- it's been in
5 limbo --

6 THE COURT: Well, somebody's --

7 MR. ZAHRALDDIN: -- during this dispute.

8 THE COURT: -- in charge of this company.

9 MR. ZAHRALDDIN: The engineers are in charge. There
10 is no other person who's there.

11 THE COURT: Mr. Stastney is there. Now, is he
12 direct -- supposed to be directing them?

13 MR. ZAHRALDDIN: Well, we can -- we can discuss
14 that --

15 THE COURT: Ah, ah, ah. I didn't --

16 MR. ZAHRALDDIN: Not now but we can discuss it when
17 it comes up.

18 THE COURT: When Mr. Stastney come up here and
19 testify, you can ask him whatever.

20 MR. ZAHRALDDIN: That's exactly what I'm going to do.

21 THE COURT: But I'm -- that's not my point. My point
22 is, are these people the people running the company, Mr.
23 Barenbrug?

24 MR. ZAHRALDDIN: They certainly would be the ones who
25 would have access to the technology and access or ability to

1 open up the technology to other people --

2 THE COURT: Why would they do that? They're not
3 running the company.

4 MR. ZAHRALDDIN: Because that's what was -- the
5 testimony was let's go to Hyundai (phonetic) and theirs is an
6 open kimono business plan. They give them --

7 THE COURT: But that's a company.

8 MR. ZAHRALDDIN: Excuse me, Your Honor?

9 THE COURT: That's the company. How does that --

10 MR. COLBY: That also wasn't the testimony.

11 THE COURT: Well, okay. Well, maybe you mis -- mis
12 --is there such a word as misremembering? Probably not but I'm
13 going to use it anyway because my kids use it all the time. I
14 misremembered.

15 Yeah, okay. But that's the point. We have spent
16 more than enough time on whether I -- I could have just said
17 I'll allow it for what it's worth, and whether I'll consider
18 it, I don't know. I think that's probably what I should have
19 done, because we have already spent I don't know how much time
20 trying to figure out whether I'm going to allow this for what
21 it's worth, which may be nothing.

22 And, you know -- and, Counsel, I think that's going
23 to be typically my approach, is I'll allow it for what it's
24 worth, whatever weight I think it is I'll give it, and if
25 somebody thinks I shouldn't have, because somebody is not going

1 to like what my -- somebody's not going to like my decision and
2 so, dimes to doughnuts, somebody's going to -- well, I don't
3 know if you can do one on a -- but at some point appeal and you
4 want to preserve the record. I get it. And that's why I'm
5 being very cautious about my evidentiary rulings because I know
6 this is what -- this is not even for me. This is for the
7 district court. Let's call it like it is. Okay. And so now
8 that we have spent --

9 Jon, what time we started talking about this? Do you
10 keep track of time? Well, we know it was before Mr. Sutton
11 (phonetic) returned --time you got back.

12 UNIDENTIFIED SPEAKER: It was one --

13 THE COURT: No, two.

14 MR. CAPONI: One thing we probably all agree on is
15 that we spent some time on this, Your Honor.

16 THE COURT: Yes. Too much time. So I'm going to do
17 what I should have done at the beginning. I'll allow it for
18 what it's worth, which may be nothing. I may give no weight to
19 it.

20 UNIDENTIFIED SPEAKER: But --

21 THE COURT: Who's saying "but" over here? Did I hear
22 somebody say something?

23 UNIDENTIFIED SPEAKER: No. No, ma'am.

24 THE COURT: All right. Who's talking?

25 UNIDENTIFIED SPEAKER: Here's some information.

1 THE COURT: No thank you. My watch is going to give
2 me information on Adco (phonetic) records.

3 UNIDENTIFIED SPEAKER: Oh, Adco --

4 MR. CAPONI: Your Honor?

5 THE COURT: Uh-huh?

6 MR. CAPONI: Sorry. Logistically, what time do you
7 think we'll be going to today and would this be an appropriate
8 time to take a break so no one gets angry?

9 THE COURT: Well, I did take a snack when I went
10 back.

11 MR. CAPONI: Okay.

12 THE COURT: Because I had to deal --

13 MR. CAPONI: I was talking about Mr. Colby, not you,
14 Your Honor.

15 THE COURT: No. I -- I have -- I have recognized
16 that I can be -- which I accuse my kids of being hangry.
17 Apparently, I have the same trait. And I thought I was doing
18 pretty good. I haven't gotten angry today. But I also walked
19 a mile and a half this morning before I came in here to set the
20 tone. So that would be fine.

21 I also probably can go late. I just have to confirm
22 that -- not with -- I need to confirm with the CSOs how late
23 they want us in here. You know, I went to midnight. They were
24 very unhappy with me. So I don't plan to do that. Okay.
25 Extremely unhappy. So we can -- we need to go 6, 6:30, I need

1 to confirm with them first. That's not a problem because I
2 made my schedule so that was a possibility.

3 And we still haven't even finished Mr. Michaels. And
4 then we have to do Mr. Stastney, which we have not -- I
5 don't -- I think our schedule did not -- I think our next
6 hearing on this is with the two Zoom witnesses; right?

7 MR. COLBY: Yes, ma'am. And we're waiting for the
8 other side to provide some dates, is my understanding.

9 THE COURT: But we didn't have a continued date from
10 today.

11 UNIDENTIFIED SPEAKER: Correct.

12 MR. COLBY: Correct. Correct, Your Honor.

13 THE COURT: You guys think about that, okay,
14 about -- because there's no way we're going to get through
15 Mister -- unless you have five minutes for --

16 MR. COLBY: I actually don't expect to be long with
17 Mr. Michaels.

18 THE COURT: But I don't expect we're going to finish
19 Mr. Michaels and Mr. Stastney today, are we?

20 MR. COLBY: I don't know. It depends, I suppose, on
21 how much cross for Mr. Stastney. I don't -- Ms. Brumme's
22 actually going to handle Mr. Stastney as a witness.

23 THE COURT: Oh, the boss is going to handle it;
24 right? Right. Okay.

25 So what I would suggest is you guys think about some

1 dates in the events we do not get through Mr. Stastney's
2 testimony. We already -- what date do we have -- we don't have
3 dates for the Zoom people -- I'm calling them the Zoom people.
4 The Netherlands folks we don't have. And it's almost December.
5 I -- I'd like to at least rule on this if I have to while in
6 the same time striving to get the other -- working on that.

7 MR. ZAHRALDDIN: And, Your Honor, we also have a
8 rebuttal witness to their engineers as well, Mr. Banergy
9 (phonetic), which I need to get names for. So we mentioned him
10 on Wednesday as well. But he would be remote. He would be by
11 Zoom as well.

12 THE COURT: I get it as -- the thing about remote, we
13 can do it in -- we don't need a whole day. If you say, I want
14 to do this witness from 12 to 6, we can do that. The problem
15 is, is that, and I'm not sure -- you know, I have allowed one
16 attorney to -- with all the witnesses here because she had
17 medical issues.

18 When I was talking, when we were trying to look
19 through the logistics, it's not going to work for half of us to
20 be here and half of the attorneys on Zoom. It just,
21 logistically, is not going to work. I know we have two of
22 these things, but I don't -- we can't do that. I have two at
23 one time. The old one and the new one. Or might have bought
24 -- is this the one we're sharing with everybody?

25 THE CLERK: Yes. What -- what do you mean two to

1 have?

2 THE COURT: Like half the people on one screen, half
3 on another.

4 THE CLERK: I mean, in theory, there would just be
5 another bubble on the -- on the screen.

6 THE COURT: I know. They told me that that's not
7 going to work. Never mind.

8 So, in theory, I thought about it but it didn't make
9 sense. But, you know, I don't know if people want to just keep
10 running to Philadelphia for a half a day. That's the -- I
11 mean --

12 UNIDENTIFIED SPEAKER: Understand.

13 THE COURT: You know, but if that's the way it's
14 going to work, maybe you do it two afternoons so you come in on
15 the Monday, you're doing Monday afternoon, you stay overnight,
16 you do it Tuesday afternoon, we're done. Instead of the other
17 way. So think about all of that.

18 And, again, I'm going to tell everybody, Ms.
19 Godfrey's gone December 31st and I'm not quite sure -- you
20 know, she had 30 years as a courtroom deputy so whoever's new
21 is not going to have any experience. Not saying they're not
22 going to do a good job. I'm sure whoever is going to do a
23 great job. I'm just saying you're going to have to be patient
24 at that point.

25 Okay? All right. We'll go in recess. Let's say

1 3:15, unless you guys need longer to run and get something to
2 eat. Around here, I don't know what they have now. Chinatown
3 but that's kind of far. What do they have?

4 UNIDENTIFIED SPEAKER: Not for a half an hour.

5 MR. CAPONI: 3:30?

6 THE COURT: 3:30. 45 minutes. If you need longer,
7 just come back. Court is in recess until 3:30.

8 UNIDENTIFIED SPEAKER: Thank you, Your Honor.

9 UNIDENTIFIED SPEAKER: Thank you, Your Honor.

10 (Recess taken)

11 THE CLERK: All rise.

12 THE COURT: Please be seated.

13 Okay. We left with Mr. Michaels going to be examined
14 regarding Exhibit 84 and whatever else. And again, I reserve
15 to give it whatever weight, if any, with respect to these
16 matters.

17 All right. And with respect to the issue of
18 addressing the issue of a preliminary injunction, what it says
19 is well-established that a preliminary injunction is
20 customarily granted on the basis of procedures that are less
21 formal and evidence that is less complete than in a trial on
22 the merits.

23 So I mean, at this point, I am not even sure if we
24 are talking about, really talking about a TRO because a TRO --

25 Oh, is that rain? I know it couldn't be rain.

1 MR. COLBY: It looks like the 4:15 is a little early.

2 THE COURT: I am like, it can't be rain.

3 You know, in my experience, which is, you know, for

4 what it is worth, when I needed a TRO, I had a hearing in the

5 morning and I had a decision by the afternoon, at most, the

6 next day.

7 This hearing, this has been going on since October

8 6th. Is this really a TRO or are we doing a -- what are we

9 doing that -- you know? And so that is why I am kind of, you

10 know, is this really a temporary restraining order? Is this a

11 TRO, a permanent? What exactly are we doing here? That is

12 sort of my question.

13 When you said to me that a preliminary injunction is,

14 you know, you don't have all of the niceties with a formal

15 final trial. But we are doing that. I mean, I don't know.

16 Mr. Zahralddin, you stood up, so you tell me.

17 MR. ZAHRALDDIN: Well, Your Honor, certainly I agree

18 with you that a TRO would have been a lot nicer earlier on. I

19 think we have probably had enough evidence for a preliminary

20 injunction. But certainly, a permanent injunction would have

21 required a much higher standard in discovery, I would imagine.

22 But I do think that the case law that we presented

23 discussed both preliminary injunction and TRO as having a

24 little bit of an easier evidentiary process, so to speak,

25 because you are trying to do your best to prevent harm that we

1 believe is imminent to give us time to preserve whatever the
2 status quo is we are protecting, up until we get to see whether
3 or not we, you know, warrants a --

4 THE COURT: Uh-huh.

5 MR. ZAHRALDDIN: -- permanent injunction, yeah.

6 Plus, you have the overlay in this case of a lot of
7 the same activity, we believe, are violations of the automatic
8 stay. Which again, you know, I have discussed with you before,
9 I think at the --on the conference, and I floated it out to
10 other folks too, in some very brief preliminary discussions,
11 nothing too deep, that a lot of the same evidence is applicable
12 to sanctions and/or any sort of other finding of actual
13 violations of the stay. So I agree with you. I think, you
14 know, we should have already had the benefits of the automatic
15 stay here.

16 THE COURT: Well, you already have the benefits of
17 the automatic stay.

18 MR. ZAHRALDDIN: Yeah, well, it doesn't seem like it.
19 We have people going into other courts in other places. We
20 have presented case law that indicates that even if it is a
21 non-debtor subsidiary, if anything happens in those
22 subsidiaries that would affect the distribution in this case,
23 both the technology and the money owed to Stream from the
24 subsidiary qualify for that. We have people going in to the
25 trademark office, not --

1 THE COURT: Yeah, but I didn't have that until today,
2 so.

3 MR. ZAHRALDDIN: Well, that is -- that happened,
4 because it only happened two weeks ago, that there was --

5 THE COURT: Oh, so even if I had issued it,
6 supposedly, I had granted it. I am not saying I would, I am
7 not saying I wouldn't.

8 MR. ZAHRALDDIN: I --

9 THE COURT: But had I, that wouldn't have been
10 evidence that I would have -- but the whole point of the matter
11 is, I am sort of thinking this through. And where, I mean, is
12 this really a TRO at this point?

13 MR. COLBY: Your Honor, I think the fact that seven
14 or eight weeks have gone by since it was first filed, and no
15 calamity has befallen the Debtor's assents belies, you know,
16 belies the purported basis for it in the first place. There is
17 no imminent irreparable harm.

18 THE COURT: Or maybe people stopped doing what they
19 were --

20 MR. COLBY: It was supposedly about the --

21 THE COURT: But Counsel, it could be that people
22 stopped doing what they were doing. I don't know.

23 MR. COLBY: Well, there was a --

24 MR. ZAHRALDDIN: Well, I am sorry, I didn't --

25 THE COURT: No, no, it is Mr. Colby's turn.

1 MR. ZAHRALDDIN: -- I didn't realize because he is
2 behind me.

3 MR. COLBY: The Debtors came through the door raising
4 hue and cry about a threat to the Philips license. And that
5 just doesn't -- hasn't panned out. I think there is sufficient
6 record to deny the request.

7 In terms of whether or not this could be a permanent
8 injunction, that would require discovery. And in my -- and so
9 I don't think that is appropriate now. And in my experience, a
10 preliminary injunction also incorporates some discovery into
11 the process. And I think it makes no sense whatsoever to begin
12 that process now. The Debtors have the burden here.

13 THE COURT: Well, a preliminary --

14 MR. COLBY: The Debtors have the burden here, and
15 they failed to demonstrate --

16 THE COURT: Well, I don't know what they failed to do
17 or not --

18 MR. COLBY: --any need --

19 THE COURT: -- failed to do at this point.

20 MR. COLBY: -- for this.

21 THE COURT: I don't know. My question simply was
22 where do the parties believe we are? And the case law that
23 they gave me said that in a preliminary injunction, it is
24 customarily granted on the basis of procedures that are less
25 formal, and evidence that is less complete than a trial on the

1 merits. And we have been treating this sort of like a trial on
2 the merits as opposed to a preliminary hearing on whether I
3 should issue, well, first the TRO, I don't know about whether
4 that is where we are, or whether I should issue a preliminary
5 injunction.

6 And so that really, I mean, I have been thinking
7 about this all along, having nothing to do with the issue of
8 the level of evidence or the issue of hearsay about
9 particularly where we are given the length of time that has
10 expired in terms of the hearing that started on October 6th.
11 It is almost going to be 60 days later. I am not sure whether
12 a -- you know, TRO is like, you get it right then and there.
13 This sort of morphed into this something beyond that. So I
14 mean, I don't know if that is what I am really looking at or
15 looking at a preliminary injunction. I don't know, I guess I
16 will have to figure that out.

17 But whether it is a TRO or a preliminary injunction,
18 the case law seems to suggest that hearsay and a less stringent
19 evidentiary standard is allowed in a preliminary injunction
20 TRO. So that really went to two different things. One was the
21 evidentiary record, and the other was just what are we doing
22 here? Because this isn't something that I am just thinking of
23 now. I have been saying for a bit now, like, what exactly are
24 we doing?

25 So with respect to the evidence, the Third Circuit

1 has said what it said with respect to the stringent evidentiary
2 rules, either in the TRO or preliminary injunction. This is
3 not a hearing on a permanent injunction, clearly. So with
4 respect to that, I think the rules are not as stringent, which
5 is why I said, you know, I had already read this case while we
6 were taking, which is I said I will, you know, I will allow it
7 for what it is worth and give it whatever weight.

8 But at some point, we have to get this done because I
9 will be -- you know, I don't know. I have only heard one side,
10 you know? And sometimes, you only hear one side. Well, in the
11 ex parte, you get it without anybody's -- you just get it on
12 the papers. But typically, you know, you come in, you make
13 your arguments. The other party makes theirs, and then the
14 judge, you know, gives you a TRO and then schedules, if
15 necessary, or you know, within whatever the time period is for
16 a preliminary injection. But mine were always simple.

17 MR. COLBY: Yeah. Your Honor, I mean --

18 THE COURT: They weren't this complicated.

19 MR. COLBY: And one of the consequences of this, and
20 I think, again, it speaks to the, really, a basis for denying
21 the request is that the purported basis for it, the longer this
22 goes on, it keeps shifting.

23 So initially, it was all about the Philips license.
24 There was a passing reference to trade secrets in the initial
25 papers. Mr. Rajan's declaration said nothing about concern

1 about the security of trade secrets. If it was that mission
2 critical, that important, you would think he would have brought
3 it to the Court's attention, and he didn't.

4 Then, when Mr. Stastney testifies as part of their
5 case, and he is asked over and over again, so you are not about
6 to issue a sublicense? You are not about to issue a
7 sublicense? He said no, we have demonstration projects that
8 are months from being completed. Then, the customer decides if
9 they want to do it. Then, we have to talk about what that
10 might look like. And so that whole basis for this motion was
11 what had zero evidentiary support, and it could have been
12 denied then. We have now moved to this trade secret issue, and
13 that wasn't really part of the --

14 THE COURT: Was the trade secret never referenced or
15 it was --

16 MR. COLBY: There was a passing reference.

17 THE COURT: It was referenced?

18 MR. COLBY: It was referenced. But again, if it was
19 such a critical thing, you would think it would have merited a
20 sentence or two in Mr. Rajan's declaration that he had some
21 concerns about the security of trade secrets. So now, we are
22 litigating that issue. And there is no evidence --

23 (Phone system chiming)

24 THE COURT: Are we getting more people?

25 MR. COLBY: There has been no evidence about what the

1 specific trade secret protections are or are not at SCBV
2 (phonetic) right now.

3 THE COURT: Oh, this is Mister --

4 MR. ZAHRALDDIN: Michaels.

5 THE COURT: No, Mr. Rajan's --

6 MR. ZAHRALDDIN: Mr. Rajan did testify, yeah.

7 THE COURT: -- testimony was that there is some,
8 based on his observation, he believes --

9 MR. COLBY: In April.

10 THE COURT: It doesn't matter.

11 MR. COLBY: Well --

12 THE COURT: Well, you know, have they changed? He
13 believes that it is what it is. Not -- will you tell me there
14 are some things I am not concerned about? I will tell you
15 frankly, all of you, there are. And somebody better have a
16 good explanation why I shouldn't be concerned.

17 So while this may have morphed into some other
18 things, and whether whatever, maybe this was better in
19 violation of a state litigation., I think what I understood
20 prompted this was Mr. Stastney's testimony at the hearing in
21 the Dutch court, for which we have no transcript. A transcript
22 would have ended all of this. It would have said what he said
23 or what did not say. It is a he said/she said, well, maybe he
24 said/he said, in this case.

25 And so yes, while it has gone from we are going to

1 lose our license because Mr. Stastney has testified that he
2 plans to license this, and that he is not protecting our
3 assets. That is pretty much what I was hearing.

4 And now, it is like he didn't protect it because they
5 aren't using some sort of whatever term it is.

6 (Phone system chiming)

7 MR. COLBY: It is blocked, Your Honor. They encrypt
8 the algorithm.

9 THE COURT: If it is not encrypted or whatever. You
10 are going to bring somebody to say it is, so it's protected.
11 Therefore, we don't need an injunction because we're not. We
12 have Mr. -- you know, we have all of this other,
13 notwithstanding Mr. Stastney's testimony that he is not going
14 to license, there is evidence that he said he would. Now, is
15 he doing it? I don't know.

16 Okay. I am just telling you what I have seen. I
17 haven't heard Mr. Stastney's explanation in response to any of
18 this stuff, other than his original testimony.

19 MR. COLBY: Correct, yeah, which I think addressed
20 that squarely.

21 THE COURT: Okay. And so that, to me, is some
22 issues. And then, there are some other issues about what they
23 are doing, who they are doing it with, and whether they like
24 it. Whether you guys like it or not, there is a license that
25 was granted by someone else to the Debtor. And I don't think

1 anybody is arguing that Rembrandt licensed something to the
2 Debtor. There may be a dispute over what that license entailed
3 and what it allowed the Debtor to do with it. But it is clear,
4 whatever that license was or is, SCBV did not just come out of
5 nowhere. It didn't. There is a -- it used that license,
6 whether it was authorized, unauthorized, given to them,
7 whatever. Okay? That is not disputed.

8 What I think you guys, is well, we took it and we did
9 something else with it. I am not a IP lawyer. I don't know
10 how IP works. I mean, I have an idea, but I have never been
11 involved in IP litigation. I know in bankruptcy what it means
12 in terms of use and reject, and all of that other stuff. But I
13 can tell you, at some point, this is either assets that the
14 Debtor has and the Debtor did something with the license, or it
15 didn't. Because there is no dispute that the Debtor had some
16 kind of license. What the Debtor did with that license and
17 what other parties did with it thereafter, that is all you guys
18 are all fighting about. That is what you are fighting about.

19 But at the end of the day, the license originated
20 with the Debtor. It means something. And what somebody did
21 with it or improved on it, if it originated with the Debtor, it
22 is an asset of the Debtor that the Debtor has done something
23 with or hasn't done something with.

24 And so to that extent, I will tell you, if anybody is
25 doing anything with assets that belong to the Debtor's estate,

1 we are going to have a problem. That is just the bottom line.
2 I don't care how it got to me. I don't care if he mentioned it
3 first day, second day, fourth day, eighth day. If you are
4 doing something that you are not supposed to be doing with an
5 asset that belongs to the Debtor, you have a problem. And I
6 don't care whether we call it TRO, preliminary injunction, it
7 is not permanent, that is where we are.

8 And so they are saying they mean, SCB -- SeeCubic's
9 -- we are not doing anything with the assets of the Debtor,
10 nothing. We are not selling it, we are not doing anything. We
11 are -- everything is for the benefit of whoever ultimately gets
12 it. That is what I am hearing. And so at the end of the day,
13 you guys need to give me what I need to figure out what is
14 going on with these assets. Either they are being protected or
15 they are not, are they are being licensed or they are not? Are
16 they being used by somebody else or they are not? That is what
17 the issue is for me. And all of this third-party, sixth-party,
18 whatever, that is what I am focusing on. And I think
19 sometimes, in the heat of the battle, you guys forget what it
20 is that I need.

21 MR. COLBY: If I might, Your Honor?

22 MR. ZAHRALDDIN: Can I speak for one second?

23 MR. COLBY: We have directly addressed the question
24 about licensing in Mr. Stastney's first testimony when he was
25 called by the Debtors.

1 THE COURT: Uh-huh.

2 MR. COLBY: And there has been no -- and the
3 statement was that they are doing the development projects.
4 The work that they are doing, it is happening at SeeCubic B, as
5 has always been the case, and that any of those proof of
6 concept projects aren't complete. And any potential future
7 licensing, parallel licensing, sublicensing, whatever it may
8 be, is well off in the future if it is going to happen at all.
9 That is the testimony so far. There is no testimony contrary
10 to that, and no evidence contrary to that other than documents
11 from 2022 --

12 THE COURT: Well, what about 2023?

13 MR. COLBY: -- when the situation was entirely
14 different.

15 THE COURT: Well, they have got the -- there is a PMB
16 or PPM from 2023.

17 MR. COLBY: There --

18 THE COURT: I don't recall what it says.

19 (Phone system chiming)

20 MR. COLBY: There is a subscription agreement which
21 simply has representations about the existence of lawsuits and
22 whether or not they would --

23 THE COURT: I don't recall what it says.

24 MR. COLBY: Right.

25 THE COURT: And I mean, I was -- I said I don't know.

1 MR. COLBY: So that was not a 2023 statement about
2 licensing. There is nothing in there about licensing.

3 THE COURT: I don't recall. I am going to take the I
4 don't recall, because I was wondering about did they say that
5 it is disputed, what did we do? But all of that, to me, I have
6 the Debtor saying this, that -- and Mr. Stastney saying
7 whatever he said. And then they are saying well, no, based on
8 these things, we don't believe -- this is our contradiction to
9 his testimony, and that we think you should also look at these
10 things, because we don't think you should believe Mr. Stastney.
11 We don't think you should believe him because whatever, for
12 whatever reason.

13 MR. COLBY: Right. And those things are the PPMs
14 from 2020 and 2022, where first of all, they are old. So they
15 don't speak to any potential immediate irreparable harm. And
16 secondly, those came into existence during a period of time --

17 THE COURT: I know when they came in.

18 MR. COLBY: -- prior to --

19 THE COURT: Uh-huh.

20 MR. COLBY: -- the Supreme Court case. So --

21 THE COURT: When was the Supreme Court decision?

22 MR. KODOSKY: June 15th, 2022.

23 MR. COLBY: June.

24 MR. ZAHRALDDIN: June 15th, 2022, Your Honor.

25 MR. COLBY: And the PPM is dated Q1 -- or Q2 2022.

1 MR. KODOSKY: And the trademark application was
2 October of --

3 THE COURT: To say --

4 MR. COLBY: We haven't gotten to the trademark
5 application yet.

6 THE COURT: Yeah, because that is --

7 MR. COLBY: I am just --

8 THE COURT: Counsel?

9 MR. COLBY: Yep.

10 THE COURT: They are what they are.

11 MR. COLBY: Yep.

12 THE COURT: And I need an explanation.

13 MR. COLBY: Yep.

14 THE COURT: And it better be a good one.

15 MR. COLBY: Yep, yep. And so there will be. I am
16 just simply focusing on, you know, this issue about Philips.

17 THE COURT: So where we are now is that we have a
18 claim that SeeCubic, Inc. and all of these other people are
19 causing irreparable harm to the Debtor. Mr. Rajan has
20 testified that, you know, they are not protecting them, they
21 are not doing this. That is why you are bring Mr. Barenbrug.

22 MR. COLBY: Barenbrug, correct.

23 MR. ZAHRALDDIN: Right. If there was no evidence,
24 there would be no need to rebut them with Mr. Barenbrug.

25 THE COURT: Well, there is evidence and they are

1 going to try to rebut it.

2 MR. COLBY: Yep.

3 THE COURT: And then, there is the evidence of all of
4 this trademark stuff, all of this other things, the website.
5 All of those things are evidence to say don't believe Mr.
6 Stastney because he is saying different things over here. So
7 there is evidence, Counsel. I am not going to say there is
8 not, because their -- what they have tried to do, is put
9 evidence -- they called Mr. Stastney as a cross, but they have
10 put in all of this other stuff, don't -- Judge, don't believe
11 him. He is not credible because look at all of these other
12 things he is doing.

13 MR. ZAHRALDDIN: Your Honor --

14 MR. COLBY: Right.

15 THE COURT: Okay. So that is sufficient for me to
16 say okay, now what do I do with it? So I didn't intend to come
17 out here and do a colloquy with Counsel about where we are, but
18 I am just trying to get your guys to focus.

19 MR. COLBY: Yes.

20 MR. ZAHRALDDIN: I understand that, Your Honor. And
21 let me just say, because there was a lot, and I am not going to
22 respond to everything. I mean, there was a nice final argument
23 that he made, and we are going to leave that alone.

24 But I am going to say this. You asked when did all
25 of this happen and what is it we are worried about? Mr.

1 Stastney, SeeCubic, Hawk, anyone who is involved as a creditor
2 in this case, should not be touching anything that is a
3 Debtor's asset. Nothing. And we have been begging for help
4 since April. It didn't just happen, it has been continuing.

5 THE COURT: Well, then why didn't -- well, we are
6 where we are.

7 MR. ZAHRALDDIN: I understand that. I understand
8 that. But to say oh, just forget about everything that has
9 happened, et cetera. Our rights are rooted under *Butner* and
10 our state law rights. And the state law right now, and the
11 Federal Bankruptcy Law says everything should have been turned
12 over to us. Then, if they want to do something with it, and
13 that is Stream, what Stream owns. Then, if they want to do
14 something, they can come in. They can file state relief
15 motions. They can object to our plan. They did none of that,
16 and that is the problem.

17 THE COURT: So you are -- you basically want me to
18 say stop doing what you are doing with all of that. And that
19 is how I am looking it is, is there going to be irreparable
20 harm to the Debtor?

21 MR. COLBY: Right.

22 THE COURT: And this proof of concept stuff, I get
23 it. You know?

24 MR. ZAHRALDDIN: I will get to it here.

25 THE COURT: Don't interrupt me.

1 MR. ZAHRALDDIN: I won't interrupt you, I am just
2 saying --

3 THE COURT: I love to interrupt people, but I get to
4 interrupt. I do it all the time.

5 MR. ZAHRALDDIN: I know, I know.

6 THE COURT: I am working on it, but I am not getting
7 good at it. Maybe by the end of my -- maybe when I finish my
8 sentence, well, sooner, I guess. Maybe by that time ,I will
9 have gotten not to interrupt. But the point I am making is
10 that if, in fact, these license -- whatever this process is,
11 gets out, it is not going to be for the benefit of any -- even
12 if it ultimately belongs to the secured creditors, okay?

13 MR. COLBY: Right.

14 THE COURT: If it gets out into the general world,
15 public, whatever word you want to use, it is going to be worth
16 zero.

17 MR. COLBY: Well --

18 THE COURT: Because everybody else will have access
19 to it.

20 MR. COLBY: Right. And Your Honor, I think that
21 speaks to, frankly, an issue I have with the basis of this
22 motion in the first place. As Mr. Stastney previously
23 testified, it is in the secured creditors' interest to preserve
24 this value. It is in the secured creditors' interest --

25 THE COURT: Yeah, but it is also --

1 MR. COLBY: -- to have SCBV be successful.

2 THE COURT: Uh-huh.

3 MR. COLBY: And to have technology that has value and
4 isn't, you know, stolen by others.

5 THE COURT: I get that. But it is also SCB -- SB --

6 MR. ZAHRALDDIN: SCBV.

7 THE COURT: -- SCBV to the extent it operates, it is
8 supposed to be for the benefit of who ultimately gets it. And
9 nobody is supposed to be doing things that does not benefit
10 both the Debtor and the Secured Creditor.

11 MR. COLBY: Right.

12 THE COURT: And so I don't know how much of that is
13 preferring one over the other.

14 MR. COLBY: Yeah, we are --

15 MR. ZAHRALDDIN: Your Honor, you are also
16 forgetting --

17 MR. COLBY: We are highly aligned --

18 MR. ZAHRALDDIN: -- you are also forgetting the
19 unsecured creditors because the unsecured creditors do not
20 benefit from the secured creditors walking away and reinstating
21 what was de facto, de facto reinstating what was part of the
22 omnibus agreement, where none of those people got paid. And it
23 was for the benefit of the shareholders at the SeeCubic level,
24 okay?

25 THE COURT: But that is for another day.

1 MR. ZAHRALDDIN: All right. Well --

2 THE COURT: So at the end of the day, my job is to
3 make sure that the assets of this estate are protected. And
4 does that mean that there is nothing going on that they are at
5 risk? I don't do anything, I say no. If I find that they are
6 at risk, I say something.

7 And so where we are is, we have heard Mr. Stastney
8 say I am not doing anything. And they are saying, no, George,
9 look at all of these things that he did, this, that. I have to
10 now weigh that. You guys are arguing the end results, but I
11 have to go and say okay, well, the Debtor said this is what
12 they are doing, this is what they are doing. Mr. Stastney says
13 I am not, you are going to bring in some other people who
14 presumably will support his position. And then I am going to
15 look at everything and say are these assets at risk of -- of
16 the Debtors, at risk of having -- being irreparably harmed with
17 respect to these assets. If they are, I, you know, it's not --
18 I'd probably issue a preliminary injunction. I don't know why
19 a TRO. If they're not, I don't do anything. I said there's
20 nothing, denied. And that's where we are.

21 And so, I think we've gone astray by arguing all
22 these things about who's what and who's -- the bottom line is,
23 and nobody has told me otherwise. The underlying license is an
24 asset of who?

25 MR. ZAHRALDDIN: The Debtors.

1 THE COURT: Both debtors? One debtor?

2 MR. ZAHRALDDIN: The Stream is the ultimate signatory
3 and -- well, sorry. Excuse me.

4 THE COURT: All right.

5 MR. ZAHRALDDIN: Stream --

6 THE COURT: Don't worry about it.

7 MR. ZAHRALDDIN: Okay. Yeah.

8 THE COURT: I have what I have in the record.

9 MR. COLBY: Yeah. Yeah.

10 MR. ZAHRALDDIN: Okay.

11 MR. COLBY: The license is, the license between
12 Philips and one of these entities, that entity is Ultra-D
13 Ventures, which is one of the --

14 MR. ZAHRALDDIN: Yeah, not under control --

15 MR. COLBY: -- subsidiaries.

16 MR. ZAHRALDDIN: -- of Mr. Stastney but independent.

17 MR. COLBY: It's an indirect --

18 THE COURT: I don't need all that commentary.

19 MR. COLBY: It's an indirect subsidiary --

20 THE COURT: Uh-huh.

21 MR. COLBY: -- of Stream.

22 THE COURT: Uh-huh.

23 MR. COLBY: And then the work, the technical
24 expertise to know --

25 THE COURT: Back up.

1 MR. COLBY: -- about the people are at SeeCubic B.V.
2 THE COURT: I get where they're at.
3 MR. COLBY: Yeah, they're at --
4 MR. ZAHRALDDIN: Yeah, but --
5 THE COURT: But there is a license between Rembrandt
6 and the Debtor?
7 MR. ZAHRALDDIN: Yes, ma'am.
8 THE COURT: Okay. And those people who are at SCBV
9 were there by virtue of some alleged relationship with
10 Rembrandt. Alleged.
11 MR. COLBY: Yeah. No, and I just -- that's --
12 THE COURT: And so -- counsel.
13 So the issue is, is what does that license mean? I
14 don't know and until somebody decides and the Debtor says this
15 is my license and you're using it in SCBV --
16 MR. COLBY: Right.
17 THE COURT: -- we've got a problem.
18 MR. COLBY: So --
19 MR. ZAHRALDDIN: Well that's -- Your Honor, that's
20 what -- Mr. Michaels is the counterparty to that --
21 THE COURT: I get that.
22 MR. COLBY: Yeah, if we're --
23 MR. ZAHRALDDIN: -- for that license.
24 MR. COLBY: If we're talking about the Rembrandt
25 license, that's a different issue. I think that'll be

1 addressed today and probably also by Mr. Barenbrug.

2 The -- just one slight correction. The folks at
3 SeeCubic B.V., really are descendants, direct descendants of
4 the Philips operation, when Philips decided it wasn't -- they -
5 -

6 THE COURT: And so they had --

7 MR. COLBY: -- worked there and they did this.

8 THE COURT: So let me back up.

9 MR. COLBY: Not Rembrandt, I guess is my point.

10 THE COURT: Wait a minute.

11 MR. COLBY: But there was --

12 THE COURT: So when Rembrandt -- and counsel, I don't
13 know how you get around this, because I think about all these
14 things. Rembrandt sued Stream, sued Mr. -- among other people,
15 Mr. Barenbrug.

16 MR. COLBY: Correct.

17 MR. ZAHRALDDIN: Uh-huh.

18 THE COURT: Okay. And there was a settlement --

19 MR. COLBY: Correct.

20 THE COURT: -- with respect to that.

21 MR. COLBY: Correct.

22 THE COURT: Well, if there wasn't a settlement.

23 You're shaking your head. Mr. Stastney was somehow involved in
24 that case.

25 MR. CAPONI: Your Honor, and I'd just correct the

1 record on this.

2 THE COURT: Uh-huh.

3 MR. CAPONI: The New York litigation ended with the
4 claims being dismissed. Rembrandt -- and this was all while
5 Mr. Rajan controlled the company. Mr. Rajan defended that
6 litigation.

7 THE COURT: And Mr. -- wait a minute. And so, Mr.
8 Michaels testimony that he directly talked to Mr. Stastney is a
9 lie?

10 MR. CAPONI: Mr. Stastney was an employee under Mr.
11 Rajan.

12 THE COURT: Doesn't matter. He was involved or not.
13 I don't want to hear about whether he was --

14 MR. COLBY: Yep.

15 THE COURT: -- an employee or not.

16 MR. CAPONI: Well, Your Honor, it's relevant for this
17 factor.

18 THE COURT: Okay.

19 MR. CAPONI: This was not an entity controlled by Mr.
20 Stastney --

21 THE COURT: Okay.

22 MR. CAPONI: -- with the secured creditors during the
23 course of the New York litigation. It was controlled by Mr.
24 Rajan.

25 THE COURT: And Mr. -- wait a minute. And Mr.

1 Stastney was not an officer or a board member or anything else
2 at that time?

3 MR. CAPONI: He was an officer.

4 MR. ZAHRALDDIN: He was both, Your Honor.

5 THE COURT: So don't tell me he was an employee. He
6 was also an officer.

7 MR. CAPONI: Well, he was under Mr. Rajan. He wasn't
8 directing the --

9 THE COURT: Was --

10 MR. CAPONI: -- litigation, Your Honor. Your Honor,
11 if I may just --

12 THE COURT: But he was an officer.

13 MR. CAPONI: He was an officer.

14 THE COURT: And a board member.

15 MR. CAPONI: And he was sent --

16 THE COURT: Yes.

17 THE COURT: -- to negotiate the litigation.

18 MR. CAPONI: Your Honor --

19 THE COURT: But so --

20 MR. CAPONI: -- the point being --

21 THE COURT: -- so who controlled -- the point of the
22 matter is, there was some sort of settlement. I don't care
23 what you --

24 MR. CAPONI: There was not, Your Honor. May I
25 clarify the record on that because --

1 THE COURT: Okay.

2 MR. CAPONI: -- it's important.

3 THE COURT: All right. There wasn't a settlement.
4 What happened?

5 MR. CAPONI: There was not a settlement. There was a
6 mediation. Rembrandt wanted there to be a settlement.
7 Rembrandt filed a Motion after the mediation to enforce a
8 settlement agreement.

9 THE COURT: Uh-huh.

10 MR. CAPONI: It was litigated. Both the magistrate
11 who oversaw the mediation and the District Court ruled, there
12 was no meeting of the minds and there was no settlement. Full
13 stop, New York litigation ends. Years later, in the context of
14 getting ready for the bankruptcy that was kicked out as being
15 fraudulent, they -- Mr. Rajan signs a settlement agreement with
16 Rembrandt.

17 So there was no New York litigation resolved via a
18 settlement. The New York litigation was resolved because the
19 case was dismissed.

20 THE COURT: Dismissed by the Court or dismissed by
21 the party?

22 MR. CAPONI: By the Court.

23 MR. ZAHRALDDIN: Can I object to the testimony?

24 MR. CAPONI: By the Court.

25 MR. ZAHRALDDIN: But Your Honor, why can't we --

1 MR. CAPONI: And there is a --

2 MR. ZAHRALDDIN: -- look at the actual written
3 document?

4 MR. CAPONI: -- written opinion, Your Honor.

5 THE COURT: You know what? I don't need anybody to
6 tell me anything.

7 MR. ZAHRALDDIN: I'm just asking.

8 THE COURT: Don't tell me anything.

9 Somebody put the -- just put the record in -- put the
10 docket in the record. I just want --

11 MR. ZAHRALDDIN: Yes, ma'am.

12 THE COURT: -- the docket in the record. I don't
13 need your interpretation, his interpretation.

14 MR. ZAHRALDDIN: That's what I'm asking. That's all
15 I'm asking.

16 THE COURT: Just put it all in. And the -- it really
17 isn't relevant to me --

18 MR. COLBY: That's -- yeah.

19 THE COURT: -- because at the bottom line is either
20 the Debtor believes this is a -- and I have to -- I can, for
21 instance, in the context of a Motion for Relief from State, if
22 the parties dispute ownership, I can, for the purpose of the
23 Motion for Relief, make a determination solely for that
24 purpose, whether in fact a party, for instance, or the mortgage
25 company says I have a mortgage, the Debtor says, you don't have

1 one. I never signed any papers. I didn't do anything. Okay.
2 I will have a hearing and I will say for the purposes of this
3 Motion, I will find, for this purpose only, it's not a final
4 determination, I'll find there's a mortgage.

5 But you guys are going to -- either I have to make a
6 final determination or you're going to go to state court and
7 have a final determination. So -- but it's because they're --
8 you know, the parties are asserting. The same way the Debtor
9 says, I own this. Okay. I own it. And somebody ultimately
10 has to determine ownership. I may have to say for the purposes
11 of what I'm doing, determine whether it's more -- it's -- that
12 the Debtor has an interest, doesn't have an interest. But
13 solely for the purpose of making my decision as to whether I'm
14 going to rule one way or the other.

15 MR. COLBY: If I could ask --

16 THE COURT: And so, that's what exists here.

17 MR. COLBY: If I could ask a question, Your Honor,
18 just so I can be sure to be as responsive as possible to what
19 you're speaking about and focusing on.

20 Are you referring to the Rembrandt license? Is that
21 what you're discussing?

22 THE COURT: Well, the license that the Debtor says it
23 has an interest in, that SCBV is using.

24 MR. COLBY: Right. So I think there are two that the
25 Debtor says -- has an interest in. There are two licenses at

1 issue. There's the Philips license, which we've talked about
2 quite a bit.

3 THE COURT: Uh-huh.

4 MR. COLBY: And then there is the 2021 settlement
5 with Rembrandt, which creates what we've been referring to as
6 the Rembrandt license.

7 MR. ZAHRALDDIN: And Your Honor --

8 THE COURT: Oh, don't interrupt him.

9 MR. COLBY: And so, I guess I don't think anybody
10 disputes that the Philips license exists. I don't think the
11 Court needs to make a ruling on that.

12 THE COURT: But to the extent the Philip license
13 exists, the Debtors asserting, I guess, some sort of interest
14 in that. I don't know if the Debtor has an interest or not.

15 Do I have to make that determination now? All I have
16 to say is the Debtor is asserting an interest, believes that
17 these -- this entity is using its asset, because they had to
18 have gotten it from somewhere. The SCBV did not, at least I
19 haven't seen it --

20 MR. ZAHRALDDIN: They're not a party.

21 THE COURT: -- in the record anywhere, a license from
22 Philips and SCBV, unless it got one lately and I haven't seen
23 it.

24 MR. COLBY: But we have the license, well, first of
25 all, it's with -- it's currently with Ultra-D Ventures. It is

1 in the record. The --

2 THE COURT: Uh-huh.

3 MR. COLBY: -- both the license is in the record and
4 the 2014 amendment.

5 THE COURT: And the license from Ultra-D to SCBV is
6 in there?

7 MR. COLBY: No.

8 MR. ZAHRALDDIN: No.

9 MR. COLBY: There is the --

10 THE COURT: That's the point, that I don't see
11 anything, but anybody giving anything to SCBV.

12 MR. ZAHRALDDIN: And --

13 MR. COLBY: Well, the --

14 THE COURT: And I don't know who owns this stuff. I
15 don't know. Somebody's going to have to figure this out. I'm
16 not an IP --

17 MR. COLBY: Yes, the --

18 THE COURT: -- I'm not trying to do IP.

19 MR. COLBY: The Ultra-D license includes SeeCubic,
20 B.V.

21 THE COURT: Oh, it says that they include it?

22 MR. COLBY: I believe --

23 MR. ZAHRALDDIN: No, Your Honor, what it says --

24 THE COURT: You know what?

25 MR. ZAHRALDDIN: Again --

1 THE COURT: We're going astray.

2 MR. ZAHRALDDIN: We are.

3 THE COURT: We're going astray.

4 MR. ZAHRALDDIN: We are.

5 THE COURT: All I was trying to figure out is, was
6 this a preliminary injunction and trying to give you guys some
7 guidance for where I was and what I was trying to figure out.
8 And from my perspective, if this is assets of the Debtor's
9 estate, I have to do something, if I believe there's
10 irreparable harm.

11 The first thing I have to figure out is, for the
12 purposes of this motion, or for TRO / preliminary injunction,
13 because that's what it's slash called, is this assets that
14 could be possibly assets of the Debtor? If I look at the
15 documents and go no way, then I don't even get to irreparable
16 harm.

17 MR. COLBY: Got it.

18 THE COURT: If I get to and say possible, then I have
19 to say, okay, what, if anything, needs to be done to protect
20 these assets? The answer could be, yeah, its assets, like,
21 possible assets. Nothing needs to be done. It's possible
22 assets, something needs to be done.

23 But that's where I am, and I was hoping people would
24 just kind of focus on that. I was trying to --

25 MR. COLBY: Sure.

1 THE COURT: -- get people to -- I have spent God
2 knows how much time, again, asking questions that I probably
3 shouldn't have and just let the parties go.

4 MR. COLBY: Well --

5 MR. CAPONI: Your Honor, if I may briefly?

6 THE COURT: Uh-huh.

7 MR. COLBY: Sorry. Sorry.

8 THE COURT: Well, okay.

9 MR. COLBY: Sorry, Mr. Caponi.

10 THE COURT: Mr. Caponi.

11 MR. COLBY: Am I allowed to interrupt Mr. Caponi?
12 Mr. Zahralddin. We're on the same team.

13 MR. CAPONI: He can interrupt me all he wants.

14 MR. COLBY: Okay. So that's up with the -- there has
15 been discussion. I think even Mr. Rajan concedes that the
16 Philips license includes affiliates and that definition would
17 include SeeCubic, B.V.

18 I think there is a separate issue that I'm not an
19 expert on, a separate sort of bankruptcy law issue about
20 whether or not, what the Debtors own is sort of in the assets
21 of the subsidiary or the interest in the subsidiary. I think
22 we have submitted some briefing on that and if -- to the extent
23 we need to argue it, we can argue it. I don't know that that's
24 an evidentiary issue.

25 THE COURT: We're not getting into that today.

1 MR. COLBY: Right.

2 THE COURT: Not today. And not --

3 MR. COLBY: Not today. Right.

4 THE COURT: -- no, and not, you know, if you
5 submitted something I'll look at.

6 Mr. Caponi?

7 MR. CAPONI: Yes, Your Honor. To your point, and
8 it'd well taken. But I would like to address one issue, which
9 is the notion. And I understand Your Honor's desire to get to
10 the heart of it.

11 This is not a we issue. The Debtor filed a Motion.
12 The Debtor bears the burden of establishing each of its
13 elements, what the property's with specificity, because the
14 Court ultimately has to enter an order. If the Court enters an
15 order, in order for it be worth the paper it's written on, it
16 has to have specificity.

17 What asset belongs to the estate, how it's being
18 used, and how it's not, et cetera. To the extent, and as Mr.
19 Colby has pointed out, this thing has morphed. I mean, I came
20 here, my client, as far as I'm concerned, this is a TRO.
21 That's what the Debtor filed.

22 If the Debtor wanted to file something else, it
23 should have, it could have withdrawn the Motion, filed the new
24 Motion.

25 THE COURT: Well, there was a TRO preliminary

1 injunction.

2 MR. CAPONI: That's fine, Your Honor.

3 To the extent the Court has questions. To the extent
4 the Debtor has failed to make order out of chaos or created, in
5 my view, chaos out of order, that's the Debtors fault problem
6 -- issue. It's not clients. And I would just like to remind
7 the Court, it's the Debtor that bears the burden. And --

8 THE COURT: I know that, counsel.

9 MR. CAPONI: -- I'm happy to answer questions and
10 bring clarity to the Court. But to the extent that the Debtor
11 filed the -- you know, a TRO Motion / preliminary injunction.
12 Then the Stay. And then a --

13 THE COURT: Well, the Stay? What Stay?

14 MR. CAPONI: -- a claim in District Court. And
15 then --

16 THE COURT: Wait a minute. The Stay has nothing to
17 do with this.

18 MR. CAPONI: Your Honor, it has this to do with it.
19 To the extent the Debtor's argument is -- Mr. Zahralddin is
20 arguing. Like, there was this -- these assets and they're so
21 important and we got to get control of them and that's been our
22 focus.

23 The Debtor's been scattershot throughout this whole
24 -- it is the conductor of a bankruptcy. It gets to decide the
25 flow, the tempo, what gets raised. The chaos was created by

1 all these things the Debtors filed.

2 THE COURT: Well, one of them was because --

3 MR. CAPONI: And then one other thing.

4 THE COURT: I will take responsibility for one that
5 kind fell through the crack and we just --

6 MR. CAPONI: Right.

7 THE COURT: -- left it out there. So that one --

8 MR. CAPONI: That's us, Your Honor.

9 THE COURT: -- that's on the Court.

10 MR. CAPONI: Everything else is the Debtor.

11 And then I don't think -- I think it has to be
12 mentioned, that this asset that we're talking about in the
13 Netherlands that seems so near and dear to the Debtor's heart
14 is an asset that the Debtor has refused to fund for years, even
15 during the course of this bankruptcy. I think that's relevant
16 to Your Honor, because if I --

17 THE COURT: Well, counsel --

18 MR. CAPONI: -- believed that I had an extremely
19 valuable asset, I had a classic Ferrari that Your Honor is
20 sitting in a garage somewhere and I -- I'm going to pay the
21 rent on the garage so my car -- that car doesn't get towed out.
22 If I don't, I think that says something about --

23 THE COURT: But your client just --

24 MR. CAPONI: -- what I think the value of the car --

25 THE COURT: Well, your client --

1 MR. CAPONI: -- is in the garage.

2 THE COURT: -- just told me or you guys just told me
3 you guys' no longer fund. And does that same apply that you no
4 longer funding and so it's just going to go to the wind?

5 MR. CAPONI: Ultimately, Your Honor, this thing may
6 go to the wind, and if the assets don't get -- and I think this
7 is the point. If the employees aren't paid, these employees
8 that -- whose knowledge in their head seem so paramount to the
9 Debtor, why is the Debtor letting them potentially just walk
10 out the door because they're not getting paid? If these assets
11 in the Netherlands are so near and dear to Rembrandts heart and
12 the Debtor's heart, why are they sitting back, letting them
13 potentially go into a Dutch bankruptcy?

14 THE COURT: Because you guys have been paying. Why
15 wouldn't he?

16 MR. ZAHRALDDIN: Well, that's not it, Your Honor.

17 MR. CAPONI: It goes to the sincerity of the
18 argument.

19 MR. ZAHRALDDIN: Your Honor, excuse me.

20 THE COURT: Whoa, whoa, whoa, whoa.

21 MR. ZAHRALDDIN: Let me ask a question. Let me just
22 ask a question.

23 We came in here and asked to fund early on and you
24 said, "No, I can't do it at this time. I don't see it as
25 assets to the Debtor, and that's what we're going to do."

1 So it -- you know, to sit there and now recreate
2 history when we came in and asked, please, let us go over
3 there.

4 THE COURT: You did, and I said --

5 MR. ZAHRALDDIN: Now --

6 THE COURT: -- go finish your funding, you already --
7 and it wasn't that I was going to let you do it because it
8 wasn't an asset. I said they already had a source of funding.

9 MR. CAPONI: Right.

10 MR. ZAHRALDDIN: I understand, Your Honor. But
11 here's the -- let me finish, Mr. Caponi, please.

12 Then during the interim, during the interim, they go
13 and take over the asset. How are we supposed to control the
14 asset when they've gone and filed things in the Netherlands to
15 take control of an asset which they have no collateral
16 involvement in period.

17 THE COURT: I don't know. I'm not going to make that
18 determination.

19 But I think that there's enough to go around for
20 everybody.

21 So Mr. Caponi, I said no funding. They did come in
22 and ask for VSI to pay the money. I don't know -- but I said
23 no, because they already had a source of funding. Why was I
24 going to let the Debtor go incur debt when somebody else was
25 already funding?

1 And so, that's really what happened is, I said no and
2 your client graciously or whatever in his best interest, I'm
3 not going to use the word graciously, but figured that it was
4 in his best interest to continue to fund. And then I don't
5 know who went and filed for independent director. I don't know
6 who went.

7 MR. ZAHRALDDIN: Well, it's on the caption, Your
8 Honor. It's on the caption.

9 THE COURT: I don't know why, but at some point,
10 whatever involvement the Debtor had, or the Debtors represented
11 or the Debtors -- or whatever Mr. Rajan's role is in the
12 Debtor, was opposed to being involved in SCBV. And he was
13 removed.

14 So I don't know. Listen, there's enough blame to go
15 around for everybody in here. So let's not everybody play the
16 martyr. Okay. Let's not play I'm bad, they good. There's
17 good and bad on every part. And at the rate you guys going,
18 you don't want to know what my perception is.

19 MR. ZAHRALDDIN: Your Honor --

20 THE COURT: You don't.

21 MR. ZAHRALDDIN: -- I just want to make sure that --
22 I've been asking. We -- you asked us to have some progress.
23 We filed a plan. The plan resolves our issues with Rembrandt.
24 The plan has purchase orders. The plan wants to move forward.

25 THE COURT: They can have all the purchase orders it

1 want. Unless you guys are selling stuff, I don't care about
2 purchase orders.

3 MR. ZAHRALDDIN: Well, we'd like to go to production,
4 but our main piece of equipment and we had to go find -- is
5 being locked up somewhere in China because of their
6 interference.

7 THE COURT: I thought you guys were mediating that.

8 MR. ZAHRALDDIN: We're trying to, Your Honor. But
9 every single time we bring something, there's some brand-new
10 issue that slows it down.

11 THE COURT: Oh, okay.

12 MR. ZAHRALDDIN: But look. I simply want to say,
13 we're trying to do what we're supposed to. But we've been --
14 I've seen it in their papers and otherwise, somewhere we're
15 creating litigation chaos. They have gone outside of this
16 jurisdiction. They've messed with stuff within this
17 jurisdiction. What are we supposed to do? Say it's okay, not
18 file something to prevent it?

19 THE COURT: All right.

20 MR. ZAHRALDDIN: The scatter shot of this --

21 THE COURT: All right. There's enough blame -- I've
22 already said, I'm going to say it again. There's enough blame
23 to go around for everybody and nobody has clean hands as far as
24 I'm concerned.

25 And so, you don't want to be there with me. You do

1 not. You do not want to -- you do not want me to have that
2 view, because it's not going to be good for anybody. Now --

3 MR. ZAHRALDDIN: Understood, Your Honor.

4 THE COURT: -- I understand Mr. DeMarco -- who's Mr.
5 DeMarco?

6 MR. DEMARCO: That's me, Your Honor.

7 THE COURT: What do you want to say, Mr. DeMarco?

8 MR. DEMARCO: I believe my matters been addressed,
9 Your Honor, and I won't derail things further. If it's
10 necessary, I'll confer with my client and --

11 THE COURT: All right.

12 MR. DEMARCO: -- if we need to file something.

13 THE COURT: So where are we at after an hour of me
14 taking us off the rails? Is that -- to the extent this is
15 either a TRO or preliminary injunction -- to the extent this is
16 a TRO / preliminary injunction, the standard is, we can have
17 some hearsay, which is what this was supposed to start out
18 about and solely be on a ruling with respect to Mr. --

19 MR. KODOSKY: Kodosky.

20 THE COURT: -- Kodosky's argument that -- in response
21 to the hearsay.

22 We have now gone off on a tangent about what I think
23 you guys should be giving me and the bottom line is as I see
24 it, the Debtor is alleging that their interest or interest in
25 whatever that license, in SCBV is not being protected and it's

1 not being protected because allegedly Mr. Stastney was going to
2 license it. This is the evidence that they provided. Mr. --
3 he's not protected it because it's not encrypted and he's doing
4 all these bad things, and I should stop him.

5 And Mr. Stastney's response is, I'm not licensed it,
6 we're not doing bad things, and we're going to put on Mr.
7 Barenbrug and somebody else to say we're not doing these bad
8 things.

9 That's all I really need, and all of this other side
10 show is really not helpful.

11 MR. COLBY: Yeah. Thank you, Your Honor.

12 THE COURT: Okay.

13 MR. COLBY: I agree.

14 THE COURT: All right. With that all being said,
15 counsel, Mr. Kodosky, after an hour, you can start with Mr. --
16 continue with Mr. Michaels testimony.

17 MR. KODOSKY: Thank you, Your Honor.

18 THE COURT: Go ahead.

19 And Mr. Caponi, I -- sorry for cutting you off.

20 MR. CAPONI: No problem, Your Honor. He has more
21 important --

22 MR. COLBY: So am I. So am I.

23 MR. CAPONI: -- things to say than me.

24 THE COURT: I tend to do that. I'm, like, okay --
25 because I know what I want to hear, and you guys are just

1 complicating it.

2 Go ahead, Mr. Kodosky.

3 MR. KODOSKY: Permission to approach, Your Honor,
4 with what is --

5 THE COURT: Yes.

6 MR. KODOSKY: -- been marked for identification as
7 Debtors Exhibit Number 85.

8 THE COURT: And you have that, John? On the --

9 MR. ZAHRALDDIN: He does.

10 UNIDENTIFIED SPEAKER: Yes.

11 THE COURT: Okay.

12 UNIDENTIFIED SPEAKER: Yeah.

13 THE COURT: I have 84, which is the definition that
14 Mr. Michaels identified has something to do with some
15 litigation somewhere. Okay.

16 All right. 85. Mr. Michaels, are you back?

17 THE WITNESS: Yes.

18 THE COURT: Who's talking? Whoever's talking, please
19 turn your phone off, because I can -- can you hear them, John?

20 UNIDENTIFIED SPEAKER: I think it was him. I think
21 it was his background.

22 THE COURT: Okay.

23 Go ahead.

24 BY MR. KODOSKY:

25 Q Mr. Michaels, well you are being shown what has been

1 marked for identification as debtors Exhibit 85. Do you
2 recognize this document?

3 A I do.

4 Q What is it?

5 A It's the nondisclosure and non-circumvention agreement
6 that was signed with Bart Barenbrug and 3D Fusion, Inc.

7 Q The nondisclosure and non-circumvention agreement that he
8 had denied executing as part of his declaration?

9 A Yes, it is.

10 MR. KODOSKY: Move to admit, Your Honor.

11 MR. COLBY: No objection, Your Honor.

12 THE COURT: Okay. Admitted.

13 (Debtor's Exhibit 85 admitted into evidence)

14 MR. KODOSKY: Thank you.

15 BY MR. KODOSKY:

16 Q Mr. Michaels, and we can set that document aside. Is it
17 your understanding that SeeCubic, Inc. has a sublicense
18 business model?

19 A Yes, from the PPM and their testimony.

20 Q Is your --

21 THE COURT: Who is talking?

22 MR. COLBY: I'm not certain, but it looks like Mr.
23 Blumenthal is not muted based on the screen.

24 THE COURT: Can you --

25 MR. COLBY: And I thought the box flashed on there

1 when -- it happens when somebody's speaking.

2 THE COURT: And who's --

3 MR. COLBY: Now he's muted.

4 THE COURT: -- he again?

5 MR. COLBY: Now he's muted.

6 THE COURT: Who is Mr. Blumenthal?

7 MR. ZAHRALDDIN: Mr. Blumenthal is the CEO of
8 Rembrandt, Your Honor.

9 THE COURT: CEO? Okay. All right.

10 Okay. I guess he did not like that answer.

11 Okay. Sublicensing. Okay. Go ahead.

12 BY MR. KODOSKY:

13 Q Is your understanding that Stream TV is selling components
14 or actual TV's?

15 A Stream TV is selling actual TV's, and we have a number of
16 units of those TV's.

17 Q And have you tested content on a Stream TV actual unit?

18 A Yes.

19 Q Were you able to remove any of the content from the TV?

20 A We were able to remove -- I mean, we were able to deliver
21 content to it externally. But we are not able to access any of
22 the processing of that content internal to the -- that is
23 internal to the TV.

24 Q Is it your assessment that Stream TV had strong security
25 protocols on content?

1 A Yes, our team has a number of people that are
2 sophisticated and understand how to deliver and manage content
3 in audio visual equipment and we were not able to get access to
4 it.

5 Q At the last hearing that was held on October, I believe it
6 was 27th, 2023, did you hear the testimony of Mr. Rajan that
7 the security --

8 A Yes.

9 Q -- that the security protocols by SeeCubic, Inc. on
10 content were removed on 8K TV's, automotive, and gaming?

11 A I did and that -- that was very distressing to myself and
12 Rembrandt staff.

13 Q Did you hear that some content companies thought the TV's
14 produced by SeeCubic, Inc. were so bad that they were even
15 mapping directly to the device?

16 A Yes.

17 Q Did you know that Stream TV has begun to work with content
18 companies and is maintaining security protocols?

19 A Yes.

20 Q If the content files are released that contain trade
21 secrets, do you think that is irreparable damage to Stream TV?

22 A Yes, and to Rembrandt, which is more my concern. But I
23 understand for the Motion that it's about Stream TV, yes.

24 Q Thank you. The Eindhoven engineers that were working at
25 Rembrandt, with a Rembrandt processor, prior to working with

1 Stream TV, is that correct?

2 THE COURT: Wait, what was the question?

3 BY MR. KODOSKY:

4 A Yes.

5 MR. KODOSKY: Eindhoven engineers. E-I-N-D-H-O-V-E-
6 N.

7 THE COURT: Oh, Eindhoven --

8 MR. KODOSKY: Eindhoven.

9 THE COURT: -- engineers. What about them? I'm
10 sorry. He understood, I didn't. What was the question?

11 MR. KODOSKY: We're working at Rembrandt with a
12 Rembrandt predecessor prior to working with Stream TV.

13 MR. COLBY: Objection, Your Honor. I don't think
14 it's been established that Mr. Michaels was involved with that
15 predecessor at that time. I don't think it's been established
16 that he has firsthand knowledge.

17 THE COURT: Okay.

18 MR. KODOSKY: I'm asking if he knows.

19 THE COURT: Well, how does he know? You can ask him
20 how does he know.

21 MR. KODOSKY: I haven't had the opportunity yet.

22 THE COURT: All right. Well, his objection's
23 sustained. Establish a foundation on how he would know the
24 Eindhoven engineers were working for Rembrandt's predecessor
25 prior to -- what was the question -- prior to --

1 MR. KODOSKY: Prior to working with Stream TV.

2 BY MR. KODOSKY:

3 Q Do you have any understanding, Mister --

4 A Yes.

5 Q -- Michaels? Based on what?

6 A My law firm has been representing Stephen Blumenthal and
7 the companies that he's worked with for 30-something years. I
8 was involved in the litigation and read the testimony, heard
9 the testimony as various Stream TV employees, and have seen
10 numerous documents going back and forth between engineers in
11 Eindhoven and Stephen Blumenthal. And I -- just up until
12 today, that that has not been disputed that those engineers
13 worked with 3DFusion and Stephen Blumenthal for roughly 18
14 months before they went to go work for Stream TV, or more
15 accurately, SeeCubic BV, a subsidiary of Stream TV.

16 Q Were there 45 meetings with meeting notes and a list of
17 attendees with Steve Blumenthal?

18 A Yes, and I reviewed those.

19 Q Who attended the 45 meetings?

20 A There are a number -- I think it's 7 to 12 engineers and
21 individuals from the -- the Ein -- what's been referred to as
22 the Eindhoven team. They're mostly former Phillips employees
23 that left Phillips to come work with 3DFusion and Stephen
24 Blumenthal, and Stephen Blumenthal's former business partner in
25 3DFusion, Ilya Sorokin.

1 Q Were the four trade secret claims discussed in the 45
2 meetings?

3 A Those trade secrets were. They weren't claims at that
4 point. They were trade secrets that were going back and forth
5 between that team and -- and Stephen Blumenthal.

6 Q Who were the engineers who signed NDAs with Rembrandt?

7 A I'd have to look back through the full records, but at
8 least Walter Roelen, Hans Zuidema, Bart Barenbrug. And I -- I
9 think there are a number of others. I'd have to look through
10 our documents to refresh my recollection as to the names.

11 Q And I believe one of the names that you mentioned was
12 Walter Roelen, R-O-E-L-E-N; is that correct?

13 A Yes.

14 Q Was Roelen paid by Rembrandt's predecessor?

15 A Yes.

16 Q Did he hold himself out as a de facto agent?

17 A Yes, and he was the director and CEO of the Netherlands'
18 entity of 3DFusion.

19 Q Was code on some of the trade secrets claims shared with
20 Steve Blumenthal?

21 A Yes, and -- and in and amongst that entire team.

22 Q What is the risk for Stream TV and Rembrandt if that trade
23 secret is leaked out?

24 A Once -- once leaked, it's going to be gone forever. The
25 entities working in this space are in China, Korea, India,

1 Japan, Taiwan. I mean, these countries are not known for
2 respecting intellectual property. You know, to date, as far as
3 we know, Stream TV has never released any of that code, even
4 though they were putting it to use without our permission. And
5 we were upset about that and eventually reached that license
6 agreement. To our knowledge, other than -- I believe the only
7 time we accused them of disclosing it was in a patent
8 application for one aspect of the trade secret information that
9 we outlined in our complaints. But other than that, they've
10 kept it secret as far as we know.

11 Q If the Phillips license is canceled, what is the damage to
12 Stream TV and I guess, by extension, to Rembrandt?

13 A Well, Rembrandt has other sources in their other licensees
14 to the Phillips license that we can work with and have been in
15 the past. For Stream, it would largely be the end of the road.
16 The -- the -- the technology is completely reliant on Phillips
17 2D-plus-Depth system, and they have hundreds -- I think it's
18 even up to about 1,500 patents -- that were -- has now been
19 sold to Leia but is now -- but anybody who had a license,
20 they've -- they've had to honor that, similar to selling a
21 building. They have to honor the -- the leases to any existing
22 tenants. So if lost, I -- Phillips is no longer capable of --
23 of issuing a new license, and Leia has its own business
24 strategy for how it wants to work with partners in that -- in
25 that space. And so it'd be catastrophic. And there's quite a

1 bit of incentive for Phillips and/or Leia to want to be in a
2 position to cancel that license. The licenses being issued
3 today are many multiples in order to magnitude higher value
4 than what Stream was able to purchase that license for.

5 MR. COLBY: Objection, Your Honor. I move to strike
6 the witness's answer. He's testifying about what Leia would
7 want to do or what Phillips would want to do. Mr. Michaels was
8 initially proffered as an expert. The Court denied that
9 request. If he wants to testify about Rembrandt and
10 Rembrandt's license fine, but he shouldn't be permitted to
11 testify about Phillips', you know, what their -- what would be
12 more valuable to them and why they'd be incented to cancel the
13 license. He just has no firsthand knowledge of that. It's not
14 appropriate.

15 THE COURT: Counsel?

16 MR. KODOSKY: I can ask what his understanding is
17 based on. I believe that he can explain where that foundation
18 is coming from.

19 THE COURT: Tell me what is -- you can ask him what,
20 you know, his understanding of how he came to that.

21 BY MR. KODOSKY:

22 Q You mentioned -- Mr. Michaels, you mentioned Leia. Who is
23 Leia and what is your understanding based on?

24 THE COURT: How do you spell that?

25 THE WITNESS: So Leia --

1 MR. KODOSKY: I'm sorry.

2 THE WITNESS: I'm sorry. Is there an objection?

3 THE COURT: How do you spell Leia? I have it as L-E
4 -- I'm sure it's wrong.

5 MR. KODOSKY: L-E-I-A?

6 THE WITNESS: L -- yes.

7 BY MR. KODOSKY:

8 Q Go ahead, Mr. Michaels.

9 A So they're an entity based out of California. And they
10 Have been acquiring companies and technology in the no-glasses
11 3D space. They bought Dimenco, which is a former subsidiary or
12 spin out of -- of Phillips, and they purchased the Phillips
13 patent estate relating to the hardware for no-glasses 3D TV.
14 And that's a matter of public record from the assignments going
15 back and forth and their press release. I've also spoken to
16 representatives in the business development office at Leia a
17 number of times and emailed back and forth.

18 Q Is there a risk to Stream TV and I guess, by extension,
19 Rembrandt when SeeCubic, Inc. and Mr. Stastney have been
20 telling people that they're going to sublicense the whole
21 industry?

22 A It's literally impossible. I mean, it -- it is a legal
23 impossibility. The licenses are a record and prohibit that
24 specifically. Virtually, any intellectual property attorney
25 would render the same conclusion.

1 MR. COLBY: Objection, Your Honor. Mr. Michaels
2 isn't able to testify about what the Phillips license allows or
3 doesn't allow. His company is not a party to that. He's not
4 an expert. And so I don't think he has a basis to be -- for --
5 for the testimony he just offered.

6 MR. KODOSKY: I believe that Mr. Micheals -- I can
7 ask him if he's reviewed the Phillips license. I believe that
8 he has, Your Honor.

9 THE COURT: Okay, but I -- I thought he said that his
10 -- some of his companies had licenses --

11 MR. COLBY: Yeah, exactly.

12 THE COURT: -- with Phillips.

13 MR. KODOSKY: Mr. Rembrandt has a license with
14 Phillips. It's not the Ultra-D ventures license. They're
15 different. Two different companies, two different licenses.

16 THE COURT: Well, I guess he can --

17 MR. COLBY: He's not an expert.

18 THE COURT: -- say based on his own license, but he
19 can't tell me what they would do with respect to somebody
20 else's --

21 MR. COLBY: Okay.

22 THE COURT: -- licenses.

23 MR. COLBY: That's what we discussed when this came
24 up last name. He can testify about his own license, but not --

25 MR. KODOSKY: Your Honor, the license with Phillips

1 has been produced as an exhibit. It's been entered into the
2 record in this case. And if asked, I believe Mr. Michaels will
3 say that he's reviewed it.

4 MR. COLBY: But just because somebody's reviewed a
5 document doesn't give them the ability to come in and freely
6 testify their opinion as to what legally it permits and doesn't
7 permit. Mr. Rajan testified about that. He's a party to it.
8 He testified to his understanding.

9 THE COURT: Well, his understanding.

10 MR. COLBY: Right.

11 THE COURT: Mr. Stastney --

12 MR. COLBY: Mr. Stastney testified about it -- his
13 understanding. Mr. Michaels -- his company is not a party to
14 it. It's just not appropriate evidence.

15 MR. KODOSKY: Mr. Stastney is not a party to the
16 contract either -- to the license agreement either.

17 MR. COLBY: Yeah, he was --

18 MR. KODOSKY: SeeCubic, Inc. is not a party to the
19 license agreement.

20 THE COURT: Well, you couldn't -- you should've
21 objected when he said it, and we have it in the record. It is
22 what it is.

23 MR. COLBY: And he was overseeing. During the period
24 of time when the omnibus agreement was in place, he was
25 overseeing the assets of Stream, which included the license and

1 the subsidiaries, and those sorts of things. So --

2 THE COURT: That's his understanding of what it
3 meant.

4 MR. COLBY: Yeah, yeah, and he had personal
5 involvement with it.

6 BY MR. KODOSKY:

7 Q As part of the diligence to give out the license, what did
8 you review?

9 A One of the critical documents we reviewed and discussed,
10 even at the first mediation hearing, was whether or not Stream
11 had acquired a license from Phillips and -- because we knew
12 that was essential for them to be able to meet the terms of the
13 settlement agreement and particularly providing millions of
14 units of TVs that Rembrandt is relying upon to capture the
15 value from that license. It was every single one of our trade
16 secrets that we have listed in that agreement references the
17 Phillips 2D-plus-Depth technology. It is the -- our technology
18 is based off of that original Phillips, so -- so Phillips
19 license. So if they did not -- if Stream did not have a
20 Phillips license that fully satisfied the ability to
21 manufacture TVs for us, we would not have entered into the --
22 the settlement agreement as we had.

23 Q When Mr. Stastney testified back on October 6th and said
24 that SeeCubic was talking to over 100 companies, in your view,
25 is that a violation of the automatic stay in this case?

1 MR. COLBY: Objection, Your Honor.

2 THE COURT: Counsel, response?

3 MR. KODOSKY: What's the objection?

4 MR. COLBY: The objection is --

5 THE COURT: The objection is he's not the judge who's
6 going to say it's a violation of the stay. And what's his
7 basis? Is he a bankruptcy lawyer?

8 BY MR. KODOSKY:

9 Q Is there a risk or a potential --

10 THE COURT: Are you withdrawing that question?

11 MR. KODOSKY: I'll withdraw the question, Your Honor.

12 THE COURT: All right. Sustained, Mr. Colby.

13 BY MR. KODOSKY:

14 Q Is there --

15 THE COURT: Oh, it's withdrawn. I don't have to
16 sustain.

17 BY MR. KODOSKY:

18 Q Is there a risk --

19 MR. COLBY: I agreed to it anyway, Your Honor.

20 BY MR. KODOSKY:

21 Q Is there a risk to harm to See -- I'm sorry, to Stream TV
22 and Rembrandt by virtue of SeeCubic, Inc. and Mr. Stastney
23 speaking to over a hundred companies regarding sublicensing?

24 A Yes.

25 Q What is your understanding of the current status of the

1 Phillips patents?

2 A The -- the Phillips patents, just to hone in, they have
3 hundreds of thousands of patents. But the -- the 1,500 or so
4 that are listed as related to no-glasses 3D hardware have been
5 sold to Leia, Inc., and that's been made a public record. They
6 maintain patents related to contract -- content creation and
7 certain tools, and they would still maintain the rights to some
8 of their software and knowhow that they had licensed out to
9 3DFusion and to Stream over the years.

10 Q Are you familiar, Mr. Michaels. with the term, "parallel
11 licensing?"

12 A I am.

13 Q What's the difference between parallel licensing and sub
14 licensing if there is a difference?

15 A Well, it's about 180 degrees difference. The -- a
16 sublicense is that I sell you a building and, or I mean, I rent
17 you a building and allow you to bring in tenants as you see fit
18 and to rent out apartments to others and make a profit on that.
19 And a parallel license is I've rented you a single apartment.
20 If you have a friend who wants to rent an apartment, you must
21 refer them to me, and I will issue the lease for that
22 apartment, and you're to have no part of it. You have no right
23 to represent me in that -- in that transaction. And it is my
24 building, and I will control the license.

25 MR. COLBY: Objection, Your Honor. I'd move to

1 strike the witness's testimony. It sounds an awful lot like
2 the expert testimony that he was attempted to be proffered to
3 give, which was denied. There is no basis in the questions for
4 why that's relevant to the Rembrandt license.

5 MR. KODOSKY: And five minutes ago, Your Honor, that
6 he reviewed as part of his due diligence, the language. He is
7 a member of the patent bar. Having reviewed the language, I
8 certainly feel it's appropriate for him to give his
9 understanding of the difference between the -- between the two.

10 MR. COLBY: Yeah. So I think a lay witness is not
11 permitted to give an opinion that's based on scientific,
12 technical, or otherwise specialized knowledge. And it sounds
13 as though that's precisely what he's being offered for.

14 MR. KODOSKY: He's a patent attorney with --

15 MR. COLBY: He's either an expert, and it wasn't
16 disclosed.

17 THE COURT: Well, he's not as -- but I think I will
18 allow it for what's it's worth to say what is a parallel
19 license. And he's said it in terms of an apartment -- and
20 sublicense. I mean, the term sublicensing -- is that a
21 technical term? You believe it's a technical term? If it's a
22 technical, and he's offering it as an expert, then, yes, I
23 would agree, I would sustain. But how -- I mean, is this based
24 on his -- some understand -- how does he know this?

25 BY MR. KODOSKY:

1 Q Mr. Michaels, how did you obtain your understanding of the
2 term parallel licensing?

3 A I've worked on thousands of licenses. I represented
4 Lucent, a number of companies in the display industry; Corning
5 -- I've done a number of licenses with Corning; Samsung, Canon,
6 Nikon, Picvue Electronics. Take your pick. I mean, I -- I
7 don't know that I can list them all now, but the -- I have a
8 fair understanding of the types of licenses that are offered
9 and negotiated. These are pretty basic, I mean, I -- I don't
10 even know that it -- these are pretty basic concepts in terms
11 of what's being offered. It's just -- it's not exclusive
12 versus exclusive, you know, are somewhat self-explanatory
13 terms. But this was a non-exclusive license. I also have a
14 business background, and the -- the value of a non-exclusive
15 versus an exclusive license or a license that carries with it
16 the right to sublicense is something that I have immense
17 experience as a business professional and with respect to how
18 Rembrandt it conducts its business. So I'm happy to testify to
19 any of those facts. But in this particular instance, I can
20 spec -- I can testify with specificity as to how it affects the
21 value ascribed to the technology that we license out as to
22 whether or not we are licensing something with the right to
23 grant sublicenses or not.

24 Q Mr. Michaels --

25 THE COURT: Whoa, whoa, whoa, whoa.

1 MR. COLBY: That sounded an awful lot like an
2 expert's CV. If Mr. Michaels is being offered as an expert, we
3 think that's inappropriate and shouldn't be allowed. If Mr.
4 Michaels wants to testify about something specific to Rembrandt
5 and the Rembrandt license, which is at issue here, that may be
6 a different story, but that sort of untethered expert testimony
7 is improper because it's undisclosed expert testimony or it's
8 improper lay opinion that requires technical or specialized
9 knowledge.

10 MR. KODOSKY: And cert --

11 MR. COLBY: That's precisely what the witness just
12 said.

13 MR. KODOSKY: I think, Your Honor, that they opened
14 the door with Mr. Stastney's testimony on this in the first
15 place. And to the extent that he's got direct experience
16 working with thousands of licenses and speak to what parallel
17 licensing means, it sounds like he said that it's a pretty
18 basic concept that would benefit the Court to have that
19 testimony.

20 THE COURT: Basic. So it's a basic concept that
21 anybody would know without having to be an expert. I know what
22 a sublicense is, and I'm not an expert.

23 MR. COLBY: This is -- but it's testimony. It's sort
24 of free floating --

25 THE COURT: I mean --

1 MR. COLBY: -- expert testimony about what -- Mr.
2 Stastney did address this, but again, that's based upon -- and
3 Mr. Rajan, I believe, addressed this too. That's based upon
4 the fact that they have been part of companies that were the
5 counterparty to the Phillips license. Mr. Michaels is not.

6 THE COURT: And he was saying -- and so I will
7 sustain -- can you sustain in part -- to the extent his
8 testimony was as Rembrandt -- he said, I know as Rembrandt that
9 we're a party to these things, I'll allow that. But just
10 general free flowing, no, no, no.

11 So you have to ask him in the context of -- because
12 he said he was -- he represented Rembrandt, he was involved, he
13 know what all these things are. What does he -- based on that
14 experience, what is his understanding of what a parallel
15 license is versus a sublicense.

16 MR. COLBY: And I --

17 MR. KODOSKY: As allowed, Your Honor?

18 THE COURT: Wait a minute.

19 MR. COLBY: I apologize for interrupting, and I'm
20 trying to be economical with my objections to keep moving, but
21 I also think it's important to stay focused on the issues that
22 the Court identified.

23 THE COURT: Why? I don't know -- well, and maybe
24 they think it's important, and I get why they think it's
25 important because they think that it's important. And maybe

1 I'm just -- never mind. Never mind. Then we're going to go
2 off on a whole tangent.

3 Just go ahead. You can ask him and restrict it to
4 his experience with Rembrandt.

5 BY MR. KODOSKY:

6 Q Restricted to your experience with Rembrandt, Mr.
7 Michaels, does that change your answer at all?

8 MR. KODOSKY: Go ahead. I'm sorry.

9 THE COURT: What answer? We didn't allow the answer.

10 BY MR. KODOSKY:

11 Q Please answer the question as limited to your experience
12 with Rembrandt.

13 A Sure. My experience with Rembrandt is that we are --
14 Rembrandt is willing to license its technology on a non-
15 exclusive basis with a -- with without a right to sublicense
16 for a much smaller amount in terms of cash and TVs that will be
17 provide to us. And we would, if somebody wanted to exclusively
18 license our technology or obtain a license with the right to
19 sublicense others. For example, if Stream were to enter the
20 market with a no-glasses 3D TV, and Samsung or LG, or any large
21 manufacturer wanted to go into business to manufacture a
22 similar TV, they would approach Phillips, Rembrandt, and
23 potentially Stream as well, and we would be able to negotiate a
24 fee all over again. And at this point with a successful TV on
25 the market, it would be worth even more. So it has a

1 substantial value to us to be in control of that technology,
2 and it would have a substantial value to us that Stream and
3 Rembrandt are collectively selling TVs that are the only no-
4 glasses 3D TVs on the market. So it would -- I don't believe
5 this is radical thinking that if you were the only one that can
6 provide something that other people value, you can command a
7 much higher price. So sub licensing or send -- send -- selling
8 something to Hyundai Motors that they get manufactured with
9 somebody who has no obligation to Stream or Rembrandt
10 significantly hurts the value of the product that Rembrandt is
11 hoping to acquire. And it would certainly hurt the value of
12 Stream -- both of its intellectual property, its current
13 assets, its ability to sell other TVs, et cetera.

14 Q Did you hear Mr. Rajan testify at the last hearing that
15 SeeCubic, Inc is doing \$600,000 a month in revenue?

16 A Yes.

17 THE COURT: Who's doing 600,000 in revenue?

18 MR. KODOSKY: SeeCubic, Inc.

19 THE COURT: SeeCubic, Inc., okay.

20 BY MR. KODOSKY:

21 Q If the 600,000 in revenue is being diverted to another
22 company, does that have an impact upon the Debtors or
23 Rembrandt?

24 A Yes. The -- Rembrandt has current litigation pending
25 against SeeCubic, Inc. Our motion for preliminary injunction

1 was denied because there was a monetary potential for a license
2 fee even though that license fee is valued at roughly \$2
3 billion. And to our knowledge, SeeCubic, Inc. does not have \$2
4 billion to pay it. But diverting income and revenue to a
5 different entity certainly compromises their ability to satisfy
6 the likely judgment that's coming against them for their
7 activities to date.

8 Q Did you hear Mr. Rajan testify in the last hearing that he
9 believed that SCBV is essentially -- that SeeCubic, Inc. is
10 bloating the expenses in the subsidiaries by \$650,000 a month,
11 basically to have excess employees to work on SeeCubic Inc.
12 projects as opposed to the four or five employees that would be
13 needed to -- that he would believe would be necessary to work
14 on the Stream TV projects?

15 A I -- I heard the testimony and have my own opinion.

16 Q What is your opinion?

17 THE COURT: Whoa --

18 MR. COLBY: Objection.

19 THE COURT: -- whoa, whoa, objection.

20 MR. COLBY: He can ask the question if he heard the
21 testimony. I was preparing to object to the next question.

22 THE COURT: Which is? What was the next question?

23 MR. COLBY: I'm just waiting.

24 MR. KODOSKY: What is your opinion.

25 MR. COLBY: But I believe the question was --

1 THE COURT: About what?

2 MR. COLBY: -- what is your opinion about that.

3 MR. KODOSKY: The number of employees that SCBV
4 needs, whether it's to be involved with Rembrandt associated or
5 affiliated projects or SeeCubic Inc projects.

6 MR. COLBY: So Mr. Michaels has no factual basis
7 whatsoever to be testifying about the work that's happening at
8 SeeCubic BV or SeeCubic Inc. He may have an opinion about
9 whatever Rembrandt work is happening, if there is any, but
10 should not be permitted to testify as to his opinion as to
11 staffing levels in a company he has no involvement with.

12 THE COURT: Counsel?

13 MR. KODOSKY: All Stream work, Your Honor, is
14 Rembrandt work.

15 THE COURT: Well, that's all fine and well, but what
16 knowledge does Mr. Micheals has of the operations of SC BV?

17 MR. KODOSKY: If the question is whether or not four
18 or five key employees over the Netherlands versus the 30 or 40
19 that SeeCubic is using to bloat the expenses over there.

20 THE COURT: How would he know?

21 MR. KODOSKY: That's what I was hoping to ask him.

22 THE COURT: No, you didn't ask -- okay.

23 MR. KODOSKY: He said that he's got an opinion on it.

24 THE COURT: So what? I can have an opinion on it
25 too. That doesn't mean anything. No offense, Mr. Kodosky.

1 I'm not trying to be flippant. But you have to establish some
2 basis as to how he would know, one, how many employees are
3 necessary, how many projects, what's his basis for that?
4 Presumably, he was involved in some develop -- I don't know why
5 he would know that.

6 MR. COLBY: What work is being done.

7 THE COURT: Wait a minute.

8 MR. COLBY: Oh, sorry.

9 THE COURT: No, I said one, he would have to know how
10 many employees for a -- what type of contract. How many is
11 involved. The basis for his knowledge. And that, you know,
12 based on his involvement in other projects, this is -- he can
13 tell me that. That doesn't necessarily mean it's bloated. But
14 he can tell me what he thinks is a good number, but he has to
15 tell me how he would know that, just in general.

16 MR. KODOSKY: I believe he said that he was here at
17 the last hearing.

18 THE COURT: I get he can hear whatever he wants. My
19 question is what is his personal knowledge as to why. If he
20 says I have been involved in projects developing whatever
21 they're developing, and typically you need ten employees to do
22 this type of work. Then that's his opinion as to how many
23 employees are needed for that type of work. Then you can tie
24 it up later, but you've got to tell me how he would even know
25 that. Not necessary even related to SC BV.

1 MR. COLBY: That's my -- yeah.

2 THE COURT: Just to how many -- you know, we've --
3 I've been involved in a project for Rembrandt when they were
4 developing the glasses, I don't know. And you have -- in that
5 project, we were doing proof of concepts for this dollar
6 amount, and we had X amount of engineers or this amount of
7 employees, and then you could somehow relate that. But he just
8 can't say I think I heard somebody say.

9 MR. COLBY: Even, Your Honor, even I would still
10 maintain that the objection goes beyond that. Even if Mr.
11 Michaels were to testify in my past experience at Rembrandt, we
12 did this type of work and we did this many people, if he's --
13 he can't, by definition, because he doesn't know -- opine on
14 the staffing levels at SeeCubic BV. And so if he can't do
15 that, who cares, frankly what they're --

16 THE COURT: Well, he can if they're similar --
17 similar projects.

18 MR. COLBY: But he doesn't know if it's similar
19 projects.

20 THE COURT: Well, that's not --

21 MR. COLBY: So like there's no way --

22 THE COURT: Well, you haven't asked -- you haven't
23 asked him what he knows.

24 MR. COLBY: -- no way to connect it over so it's --

25 THE COURT: I don't know what the point is.

1 MR. COLBY: -- it's by definition not relevant is
2 what I was getting to.

3 THE COURT: But you don't know because he hasn't
4 asked him what he knows and how he knows, other than he heard
5 Mr. Rajan say it. That's the point. The point is you can't
6 just because you heard somebody say, say I think this. You
7 have to say based on my own knowledge -- this is how we staffed
8 it. Based on my knowledge, this is what they're doing because
9 Mr. Stastney has testified to what these projects are and who
10 they're for. He may say based on my experience, we did this
11 based on what I heard Mr. Stastney say, I think this. But you
12 got to give me something other than he heard somebody say.

13 MR. KODOSKY: Actually, Mr. Stastney refused to tell
14 us who their projects were for.

15 THE COURT: Doesn't care what he told you who it was
16 for. He told you what they were doing. But that doesn't
17 matter. You still have to establish how Mr. Micheals would
18 know what is proper staffing.

19 BY MR. KODOSKY:

20 Q What personal knowledge, Mr. Micheals, do you have
21 regarding proper staffing levels at SC BV?

22 A My -- I used to be CEO of New Pics, LLC (phonetic). We
23 received roughly four million dollars in New York State Energy
24 Research Development grants. We built our displays from
25 scratch. We built all of our own production equipment. We

1 built those displays with the head of the company, the founder,
2 Chad Mower (phonetic). And he had a technical assistant, and I
3 would go over every once in a while, to assist. But we were
4 able to build the world's largest plasma address liquid crystal
5 display at the time with two full time people and me helping
6 out every once in a while.

7 Q Tell us how that relates to SC BV?

8 MR. COLBY: I object.

9 THE WITNESS: The --

10 THE COURT: Well, woah. He's objecting.

11 MR. COLBY: Yeah, I object. There again, we've
12 gotten very far from what's supposed to be the core issue of
13 this TRO hearing. Mr. Michaels' view on staffing levels have
14 nothing to do with whether or not there's some threat to the
15 Phillips license or whether or not there are adequate
16 protections around trade secrets. We are so far afield right
17 now, and we just need to focus on the issues the Court
18 identified and move on.

19 THE COURT: All right, Mr. Kodosky, he's objecting on
20 the basis of relevance. How is this relevant to me deciding
21 whether I'm going to issue a preliminary injunction?

22 MR. KODOSKY: I have nothing further, Your Honor.
23 We'll reserve for rebuttal.

24 THE COURT: All right.

25 MR. KODOSKY: Thank you.

1 THE COURT: All right. For redirect, okay.

2 Mr. Colby, you got about -- I'm going to -- what is
3 the motion? What do they say? Okay. Of course, they say
4 whatever I want.

5 MR. COLBY: It's nice to be the judge.

6 THE COURT: Yeah. Three dollars will get me a cup of
7 coffee.

8 All right. Go ahead.

9 CROSS-EXAMINATION

10 BY MR. COLBY:

11 Q Mr. Michaels, you described earlier today a process when
12 you examined the Stream TV technology. Do you recall that
13 testimony?

14 A Yes.

15 Q That was in 2019, correct?

16 A It would have -- that would have been in 2017, '18, '19.
17 We've done so again in '20, '21, and '22. I don't know that --
18 again, I think early 2023, we've looked at various aspects of
19 the Stream TVs.

20 Q Okay. You've not conducted that type of examination of
21 any technology that's being used by SeeCubic BV in 2023,
22 correct?

23 MR. KODOSKY: Object. Misstates his testimony. He
24 said that some of it was in 2023.

25 MR. COLBY: He said 2022. I'm asking --

1 THE COURT: He said early 2023.

2 THE WITNESS: In '23.

3 BY MR. COLBY:

4 Q Okay. So but the units that you examined, those came from
5 who? From Stream TV?

6 A Yes, and more accurately, people they sold TVs to supply
7 some of those TVs for Rembrandt.

8 Q Okay. And the units that are being used by the folks at
9 SeeCubic BV in 2023, you've not examined those in 2023,
10 correct?

11 A I have not.

12 Q So you're not in a position to testify about what trade
13 secret protections are in place on the technology that's being
14 used by SeeCubic BV in 2023, correct?

15 A Our understanding -- that, I don't believe, is correct.
16 And our understanding comes from SeeCubic's position in the
17 Delaware litigation. Part of the unknown, and that we would
18 find out in discovery very early, is whether or not SeeCubic
19 has been making anything.

20 One of the issues that was raised by both parties is
21 whether or not everything that SeeCubic has been providing or
22 offering for sale was provided by Stream, which would mean that
23 it was licensed and therefore, they would not be liable for
24 patent infringement and for trade secret misappropriation for
25 offers to sell or sales of those TVs. If you are representing

1 to us that SeeCubic is --

2 THE COURT: Wait a minute. That's enough. That's
3 enough. That's enough. That's enough.

4 BY MR. COLBY:

5 Q Mr. Micheals, I'm simply asking whether or not you've
6 conducted that type of examination on the units that are being
7 used by SeeCubic BV in 2023. I think the answer was no,
8 correct?

9 A I have not conducted that in -- that -- I'm not aware that
10 SeeCubic has made anything. And so my understanding is that
11 they were largely selling or entirely selling products made by
12 Stream TV. If SeeCubic is actually making product, I
13 appreciate that information. That will be helpful.

14 Q I'm asking about --

15 A But right now --

16 THE COURT: So he said no because they haven't
17 produced any.

18 BY MR. COLBY:

19 Q Right. I'm asking about SeeCubic BV.

20 A I understand.

21 Q Okay.

22 A Oh, SeeCubic BV.

23 Q Yes.

24 A I -- SeeCubic BV, my understanding is that their efforts
25 were incorporated into the TVs sold by Stream TV. So yes, I

1 believe I have reviewed what they have been preparing to my
2 knowledge today.

3 Q And to the extent that that's true, the last time that you
4 conducted that exam -- that type of examination was in early
5 2023?

6 A Yes. I'd have to look at the -- it was about the time
7 that we -- I sent the email to Ian Lifton (phonetic) and then
8 shortly thereafter, we had accessed additional units to review.

9 Q And Mr. Micheals, you -- the proof-of-concept projects
10 that have been talked about in this hearing, you have not had
11 any opportunity to examine the technology that is -- I'm sorry.
12 Let me start that over again. The proof-of-concept projects,
13 you're not involved in those, correct?

14 A I am not personally involved in those projects, no.

15 Q You're not an employee of SeeCubic BV?

16 A I am not an employee of SeeCubic BV.

17 Q You're not a principal of SeeCubic BV?

18 A I am not.

19 Q You've not been a party to any conversations that SeeCubic
20 BV may have had with the counterparties to those proof-of-
21 concept projects?

22 A Only in the respect of our communications with the
23 independent director.

24 Q Right.

25 A And I should add, Mathu Rajan and Bud Robertson (phonetic)

1 to the extent they had knowledge and were involved in those
2 conversations.

3 Q Right. You personally -- you personally haven't been
4 involved in those conversations, correct? With the
5 counterparties on these proof-of-concept projects, right?

6 A With the counterparty, no. Not -- I haven't directly
7 spoken to any of the counterparties.

8 Q The units that you examined in early 2023, do you know
9 when they were manufactured?

10 A I do not, but it is -- I don't know the exact date of
11 manufacture. But I believe that it was prior to the omnibus
12 agreement being signed.

13 Q Okay. So prior to 2020 or earlier?

14 A Yes.

15 Q So you've not examined any of the devices that have been
16 manufactured, if any, at SeeCubic BV since 2020?

17 A Not that I'm aware of, no.

18 Q Mr. Micheals, you don't know whether or not the projects
19 that are currently being worked on at SeeCubic BV, you don't
20 know whether or not those use any Rembrandt technology,
21 correct?

22 A I'm not sure I follow exactly the negatives in your
23 question. It is our understanding that those projects are
24 incorporating Rembrandt technology and Phillips technology.

25 Q You're not involved in those projects, correct?

1 A I am not directly talking to the third parties, and I am
2 not an employee or officer of SC BV. Those are the questions
3 you asked me. But I'm -- I've been provided information about
4 those projects, and I've heard testimony about those projects
5 by Shadron Stastney. So I -- so our understanding, giving you
6 my best understanding, is that it includes our technology.

7 Q Right. Your understanding is based upon what you've heard
8 here in this courtroom?

9 A It's based on conversations with people that have examined
10 those products. It's based on what -- we included pictures in
11 our Delaware complaint of what SeeCubic was offering. It's
12 part of the evidence. It's based on what SeeCubic has put on
13 its own website. I mean, there's -- there's a very large
14 complaint with a large number of exhibits in the Delaware
15 complaint that was filed back in March that details our basis
16 for bringing that case and making those allegations. And I can
17 go on at length, but we have beliefs and understanding that
18 that tech -- those projects include our technology.

19 Q Right. I guess I'm asking a more precise question. Given
20 that you have no first-hand involvement in those projects, you
21 don't know whether or not they rely on any Rembrandt
22 technology. You don't know that first-hand, correct?

23 A I don't agree with that statement.

24 Q You do agree with the statement that you don't have any
25 involvement in those -- any first-hand involvement in those

1 projects, correct?

2 A I do.

3 Q Mr. Michaels, you've not been party to any conversations
4 between SeeCubic Inc and Phillips, correct?

5 A I have not been on the phone when SeeCubic has spoken to
6 Phillips. That is correct.

7 Q And you have no first-hand involvement in the current --
8 you have no first-hand involvement in the current security
9 arrangements around trade secrets in IP at SeeCubic BV,
10 correct?

11 A I'm -- you need to repeat -- I didn't follow that, I'm
12 sorry. I'm not --

13 Q Sure.

14 A Just not understanding what you --

15 Q Sure. You don't work at SeeCubic BV, correct?

16 A I do not work at SeeCubic BV.

17 Q Right. So you're not involved in -- you have no first-
18 hand involvement in whatever protections SeeCubic BV currently
19 has around trade secrets and IP, correct?

20 A I do not.

21 MR. COLBY: Just one minute, Your Honor.

22 THE COURT: Uh-huh.

23 MR. COLBY: I don't have any other questions at this
24 time, Your Honor.

25 Mr. Caponi may.

CROSS-EXAMINATION

BY MR. CAPONI:

Q Good afternoon, Mr. Micheals. Steve Caponi from K&L
Gates. How are you?

A Good.

Q Good. So you were involved with the New York litigation
we've been discussing today, correct?

A Yes.

Q And you participated in the mediation, correct?

A Yes.

Q And the mediation when the mediation concluded, did not
result in a settlement, correct?

A Incorrect.

Q You filed a motion with the magistrate arguing that a
settlement had been reached and the magistrate rejected that
argument, correct?

A Incorrect.

Q Are you aware that the magistrate issued a written
decision rejecting the notion that the mediation had resulted
in a settlement?

A I am aware that the magistrate provided a writing. It was
not a decision and it held that there were two types of
potential agreement, a phase 1 or a phase 2. And then she
recommended that the action be taken to the district court to
litigate further and have a hearing as to whether or not it was

1 a phase 1 agreement. And as part of that, the -- we were
2 proceeding down that path when the bankruptcy case was filed.
3 We notified the court to stay the proceedings to continue the
4 case. We were then proceeded to -- when the bankruptcy was
5 dismissed, we then proceeded to reenter mediation and
6 settlement discussions that resulted in the settlement
7 agreement that we have today.

8 Q When was the mediation?

9 A We started our mediation in 2018 and had numerous sessions
10 related to settlement and mediation, many of them outside the
11 presence of --

12 Q Mr. Micheals, I appreciate that. My question was more
13 direct. What year was the mediation?

14 MR. ZAHRALDDIN: Objection, Your Honor.

15 THE COURT: Which mediation? He said --

16 MR. CAPONI: The mediation in New York.

17 THE COURT: He said they'd started in whatever and
18 then it was stayed and then they started after the bankruptcy.

19 MR. CAPONI: I'm getting there.

20 BY MR. CAPONI:

21 Q When did the mediation in New York start, Mr. Michaels?

22 A It started in 2018.

23 Q And when did the magistrate issue a writing, as you call
24 it, saying that a settlement agreement had not been reached?

25 A I'd have to look back. I think it was 2020-ish. Because

1 it had come out -- or maybe it was 2021, because we were
2 actively working on our response and preparing for the hearing
3 when Stream filed for bankruptcy in the first instance.

4 Q And it's your testimony that the magistrate found that
5 there was a possibility that a settlement had been reached and
6 you just needed further proceedings in front of the district
7 court?

8 A It is our -- I mean, it says what it says. I mean, it's
9 right in the record. I'm not trying to -- I would rather not
10 even characterize it. But it is certainly not true that she
11 made a decision. She didn't have the power to do what you're
12 proposing. But it -- she provided a writing that is on the
13 record that can be reviewed. We talked about how we're getting
14 far afield. I -- there is a written settlement agreement that
15 the parties reached.

16 Q Excuse me, Mr. Micheals, I'm not asking you to --

17 THE COURT: All right, woah, woah, woah, woah.

18 MR. KODOSKY: Objection, Your Honor.

19 MR. ZAHRALDDIN: Objection, Your Honor.

20 THE COURT: Woah, woah, listen. I get it. She wrote
21 an opinion. It says what it says. He has his interpretation.
22 She's a magistrate. They only have so much power.

23 MR. CAPONI: Okay. One more question, Your Honor.

24 THE COURT: They only have so much power.

25 BY MR. CAPONI:

1 Q Mr. Michaels, that magistrate that you said had no
2 authority to determine whether there had been a settlement,
3 that was the magistrate who oversaw the mediation, correct?

4 A It was Magistrate Parker, yes, Katharine Parker.

5 Q So to answer my question, the judicial officer in front of
6 whom you mediated was the magistrate that issued that opinion,
7 correct?

8 A Yes.

9 Q Thank you.

10 MR. ZAHRALDDIN: Objection, Your Honor.

11 THE COURT: What basis? It's -- look. I'm not -- I
12 don't know what this --

13 MR. ZAHRALDDIN: Mischaracterizing the witness's
14 testimony.

15 THE COURT: It is what it is.

16 MR. ZAHRALDDIN: He restated it and said, oh, it's an
17 opinion.

18 THE COURT: The magistrate -- listen.

19 MR. ZAHRALDDIN: It's a typical gotcha maneuver.

20 THE COURT: The magistrate said what they said. The
21 ultimate determination belongs with a different court. I'm not
22 an idiot and I wish you guys would stop it. The magistrate --
23 the same way there are certain things that I can make a final
24 determination on and there's certain things I cannot. I could
25 issue whatever I want on matters that I do not have the

1 authority to make a final determination. I issue. I say what
2 I say. I send it to the district court. The district court
3 makes the final determination.

4 So I can say whatever I want to say on matters that I
5 do not have the authority to make a final decision and I am in
6 basically the same role on certain things as the magistrate
7 judge. So I don't know what you guys are wasting your time
8 for. The magistrate can say whatever he or she wanted. Is
9 there a ruling by the district court, otherwise, I don't want
10 to hear it.

11 You guys can fight, put it in the record, it doesn't
12 matter to me what is what. Okay. And I don't know what this
13 has to do with anything, and I don't know why you even -- I
14 mean, why he's even talking about that. It is what it is.

15 So Mr. -- you want to follow up, Mr. Caponi?

16 MR. CAPONI: Yes, Your Honor.

17 THE COURT: Because you want to tell me the district
18 court?

19 MR. CAPONI: Just to tie the bow on it.

20 BY MR. CAPONI:

21 Q Mr. Michaels, the district court adopted and approved the
22 magistrate's writing, as you refer to it, correct?

23 A I don't remember. I mean, it's in the record. We reached
24 a settlement agreement. None of this is -- I don't --

25 Q Mr. Micheals, that wasn't my question.

1 THE COURT: All right, so.

2 MR. KODOSKY: Objection, Your Honor.

3 THE COURT: So he said he doesn't remember. Somebody
4 want to tell me, was the report -- because it would have
5 been --

6 MR. CAPONI: Yes, Your Honor. We'll give it to Your
7 Honor.

8 THE COURT: Yeah. Resubmit it.

9 MR. CAPONI: The magistrate's report was affirmed by
10 the court.

11 THE COURT: A report and -- I would have done a
12 report and recommendation. My report and recommendation don't
13 mean anything because the district court tells me they go and
14 got it.

15 MR. CAPONI: Your Honor, I will submit it to you.

16 THE COURT: Right. And somebody gives me -- because
17 he said they resumed mediation. I don't know how you -- I
18 don't know.

19 MR. CAPONI: You'll see it in the record, Your Honor.
20 It's crystal clear.

21 THE COURT: All right.

22 MR. CAPONI: Thank you.

23 THE COURT: And if somebody want to give me the
24 docket, they can give me the docket.

25 Yes, counsel?

1 MR. DEMARCO: Yes, Your Honor. Just request that my
2 client be able to finish the answer to that question. I
3 believe he was still talking when there was an interjection --

4 UNIDENTIFIED SPEAKER: Interruption.

5 MR. DEMARCO: -- between.

6 THE COURT: All right. So his answer was he does not
7 recall whether the District Court adopted it or not, which does
8 not necessarily mean it was the end of the litigation. It
9 could have meant the District Court sent you guys back to the
10 magistrate. I don't know. Somebody give me the dockets.

11 MR. DEMARCO: That's right.

12 THE COURT: Okay. Because I think his testimony is,
13 is that we started a mediation and then the District Court said
14 there wasn't or the magistrate said something. That was the
15 bankruptcy, then we went back and resumed mediation, which
16 possibly could have happened because unless the District Court
17 dismissed the matters, it would have still been pending. So
18 somebody give me the dockets. I don't know what the relevance
19 is. Can somebody tell me what the relevance is?

20 You brought it up, Mr. Zahralddin. Your client
21 brought it up.

22 MR. ZAHRALDDIN: Well, we -- you're right, Your
23 Honor. So the relevance of the settlement is only the fact
24 that we got to a settlement eventually. Whether or not --
25 there was determinative -- even if -- let's say -- because I

1 haven't looked at the very end of this record in a while.

2 Let's say the settlement was pushed aside. That doesn't end
3 the litigation. That means it's open litigation. All I know
4 is when they approached us --

5 THE COURT: All right. Just --

6 MR. ZAHRALDDIN: -- there was a settlement.

7 THE COURT: Put the docket in an I will --

8 MR. ZAHRALDDIN: Yes.

9 THE COURT: To the extent it's relevant. I don't
10 know what the relevance is, but put it in. Put in in.

11 MR. ZAHRALDDIN: We will do so. Thank you, Your
12 Honor.

13 THE COURT: All right.

14 MR. DEMARCO: I have no further questions, Your
15 Honor.

16 THE COURT: All right. Any further for you, Mr.
17 Colby or Ms. Brumme?

18 MR. COLBY: No, Your Honor.

19 THE COURT: Okay. Any redirect?

20 MR. ZAHRALDDIN: Briefly, I think, Your Honor.

21 THE COURT: All right.

22 MR. KODOSKY: Just very briefly, Your Honor.

23 THE COURT: Okay. Yes and it has to be limited to
24 what these two gentleman asked, okay?

25 MR. KODOSKY: Understood. Thank you, Your Honor.

1 REDIRECT EXAMINATION

2 BY MR. KODOSKY:

3 Q Mr. Michaels, you were asked whether or not you were -- if
4 you had participated in any of the conversations that SeeCubic
5 Inc. has had with Phillips. Do you recall receiving that
6 question from Mr. Colby?

7 A Yes.

8 Q If SeeCubic, Inc., has no license agreement with Phillips,
9 what business or what basis -- or I guess, what potential for
10 harm exists by SeeCubic, Inc., having conversations with
11 Phillips about the license agreement?

12 MR. COLBY: Objection, Your Honor.

13 THE COURT: Yes.

14 MR. COLBY: It's a question about two parties of
15 which Mr. Michaels doesn't belong.

16 MR. KODOSKY: He asked the original question, Your
17 Honor --

18 MR. COLBY: He's asking --

19 MR. KODOSKY: -- as to whether or not he participated
20 in any of those conversations. And I'm asking if they should
21 even be having those conversations with Phillips, if it's -- if
22 they're not a party to the agreement.

23 MR. COLBY: He has no first hand knowledge of what
24 those conversations were.

25 MR. KODOSKY: He asked him the question.

1 MR. COLBY: If --

2 THE COURT: Wait. Woah. Woah.

3 MR. COLBY: -- if any, so how could he render an
4 opinion on harm that could come from conversations that he's
5 not a part of, has no idea what they're about? No idea if they
6 occurred, when they occurred, who they were with.

7 THE COURT: Or if they even occurred.

8 MR. COLBY: Or if they even occurred.

9 MR. KODOSKY: He asked the question, Your Honor.

10 THE COURT: I know the question, counsel, was Mr.
11 Michaels, were you party to any conversation between SeeCubic
12 Inc. --

13 MR. KODOSKY: Yes.

14 THE COURT: -- and --

15 MR. KODOSKY: Phillips.

16 THE COURT: -- Phillips. Okay. He said no, so the
17 question is -- okay. Your question is, should they have been
18 having a conversation. Based on what? I'm asking him.

19 MR. COLBY: Yeah.

20 MR. KODOSKY: And I'll ask him the same question
21 related to Rembrandt.

22 BY MR. KODOSKY:

23 Q If Rembrandt was contacted by SeeCubic Inc., regarding the
24 Stream TV license agreement with Rembrandt, would that be
25 appropriate?

1 MR. COLBY: Objection. It calls for speculation.

2 MR. KODOSKY: It goes to the harm. He stood up here
3 30 minutes ago saying we're not showing any harm.

4 THE COURT: All right, but that's not the point,
5 Mister --

6 MR. KODOSKY: Kodosky.

7 THE COURT: -- Kodosky. The question is, when you
8 get to redirect, you get to ask him questions related to the
9 questions that were asked by the other parties on cross. The
10 only questions that Mr. Colby had and I'm -- and I apologize.
11 I'm about to forget Mr. Colby's name and I apologize. Same as
12 Kodosky. I'm -- it's getting late. I'm stuttering on names.
13 The only thing that he asked him was what -- with respect to
14 did you examine the Stream TV technology? He said he did.

15 Did he examine the SCBV units? No. And was he able
16 to determine if they were different? Asked him about the proof
17 of concept projects, the current projects. Then he asked him,
18 did -- he was party to any conversation with Phillips and then
19 he had firsthand knowledge of any security arrangements between
20 SCBV currently have with respect to the units that are, if any,
21 being produced. So you can ask him anything with respect to
22 those areas.

23 MR. KODOSKY: He was -- Your Honor, he was
24 specifically asked whether or not he participated in any of the
25 conversations between SeeCubic, Inc. -- and I've got it written

1 down on my notes and Phillips.

2 THE COURT: And he said he wasn't.

3 MR. COLBY: So --

4 MR. KODOSKY: My answer is no.

5 MR. COLBY: And --

6 MR. KODOSKY: My question to him is --

7 THE COURT: Woah, woah, woah.

8 MR. KODOSKY: Let me finish --

9 THE COURT: Let him finish, Mr. Colby.

10 MR. KODOSKY: -- Mr. Colby. My question to him is,
11 is it appropriate for a nonparty to the license agreement to be
12 having conversations with the licensor?

13 THE COURT: But the --

14 MR. KODOSKY: He's a licensor, Rembrandt.

15 THE COURT: But the assumption is is that they were
16 talking about the license with Phillips and the Stream entities
17 and we have no information about what SeeCubic, Inc., was
18 talking to Phillips about.

19 MR. KODOSKY: And my only question is, is it even
20 appropriate for a nonparty to be speaking to the licensor about
21 somebody else's license agreement?

22 THE COURT: But we don't -- be the -- sustained.

23 MR. KODOSKY: Okay. Thank you, Your Honor.

24 THE COURT: Sustained. Sustained. Okay. next
25 question. That's it?

1 MR. KODOSKY: Thank you, Your Honor. That's all.

2 THE COURT: All right. Anything else from anybody
3 with respect to Mr. Michaels?

4 MR. COLBY: Not from me, Your Honor.

5 MR. CAPONI: Not from me, Your Honor.

6 THE COURT: All right. Mr. DeMarco, do you have any
7 questions?

8 MR. DEMARCO: No, Your Honor. Just if my client may
9 be allowed to, I guess, return home to Florida -- his folks.

10 THE COURT: To do what?

11 MR. DEMARCO: Just to step down.

12 THE COURT: Oh, okay. All right, Mr. Michaels,
13 unless you want to stick around and listen, you are excused.
14 I -- you may --

15 THE WITNESS: Thank you, Your Honor.

16 THE COURT: -- you can stay and listen, but not as a
17 witness, just as an observer or as counsel for -- co-counsel
18 for Mister --

19 MR. BLUMENTHAL: Blumenthal.

20 THE COURT: I'm sorry. I was trying to --

21 THE WITNESS: Understood Your Honor. I will stick
22 around but I'm going to go stop my video and go on mute.

23 THE COURT: Okay. Thank you. All right. So does
24 the Debtor rest with respect to its request for a TRO,
25 preliminary injunction, rest in its case in chief with the right

1 to recall, I guess?

2 MR. ZAHRALDDIN: We do, Your Honor.

3 THE COURT: All right. Mr. Colby, it's -- do you
4 want to start with Mr. Stastney or do you want to --

5 MR. COLBY: So, take our cues from the Court.

6 THE COURT: Well, how long do you think?

7 MR. COLBY: Well, I think for a direct, I'm guessing,
8 but 60 to 90 minutes.

9 THE COURT: Oh, Lord. Okay. That will take us to
10 7:00 -- I was prepared to go to 7:30.

11 MR. COLBY: If we're lucky --

12 THE COURT: Right.

13 MR. COLBY: -- it'll take us to 7:30. There's also a
14 matter we were just hoping to get some clarity on and that is
15 exactly what we'll be doing on Wednesday, so we know whether or
16 not we need to be here or not be here.

17 THE COURT: Wednesday -- what is on for Wed --

18 UNIDENTIFIED SPEAKER: Wednesday is the 2019 motion,
19 Your Honor.

20 MR. COLBY: And so -- sorry. Before we get into it,
21 I guess I'm asking the Court's preference whether we start with
22 Mr. Stastney, which we're happy to do all the issues are still
23 fresh or whether we talk about what we're doing on Wednesday.
24 I suspect that will eat up a little bit of time.

25 THE COURT: A lot of time. It always does.

1 MR. COLBY: The way these things go.

2 THE COURT: Well, it would make -- well, do you think
3 it would make sense to have Mr. Stastney's direct testimony and
4 then we can have him just come back for cross and then redirect
5 or would you prefer it to be all on one day?

6 MR. COLBY: I think it's generally better when it's
7 all on one day.

8 THE COURT: Okay. I do, too, but I'm giving you that
9 option. So that means that we're not going to start Mr.
10 Stastney and that means we can devote some time to figuring out
11 what will happen on Wednesday. I will be honest, at this
12 point, my mind is a little -- what are we -- what is listed for
13 Wednesday? Was Mr. -- is Mr. Parks' on -- application on?

14 UNIDENTIFIED SPEAKER: No, ma'am. We moved that to
15 December the 11th.

16 THE COURT: Okay. What's on -- that -- everybody's
17 understanding of what's on for the 20 -- for the 29th, right?

18 MR. KODOSKY: It's simply the 2019 motion.

19 THE COURT: Which is to --

20 MR. KODOSKY: The 2019 motion.

21 THE COURT: -- whether they were required on the 2019
22 whatever to disclose --

23 MR. KODOSKY: Well, required and obviously, it's
24 continuing disclosure.

25 THE COURT: All right.

1 MR. KODOSKY: Even -- I mean, it's --

2 THE COURT: That's it?

3 MR. KODOSKY: That's it.

4 THE COURT: Do we need just legal argument on that or
5 do we need some evidence?

6 MR. CAPONI: Your Honor, so from our perspective, we
7 think it's a legal issue.

8 THE COURT: That's what I'm thinking.

9 MR. ZAHRALDDIN: It's my motion.

10 MR. CAPONI: But it's the Debtor's motion.

11 MR. ZAHRALDDIN: It's my motion, so you know --

12 MR. CAPONI: As I said before, the Debtor is the
13 conductor of their own symphony.

14 MR. ZAHRALDDIN: -- I would, except for someone who
15 keeps trying to take it over, so --

16 THE COURT: All right. Listen. All right, guys.
17 I'm the only one that can be snarky.

18 MR. ZAHRALDDIN: I'm not trying to be snarky. I'm
19 stating a fact. You asked me and then Mr. Caponi had to answer
20 instead.

21 THE COURT: All right.

22 MR. CAPONI: Sorry. I thought you pointed at me. I
23 didn't mean to jump in.

24 THE COURT: Okay. all right. I'm the only one that
25 gets to jump in. So Mr. --

1 MR. ZAHRALDDIN: Your Honor --

2 THE COURT: -- Zahralddin.

3 MR. ZAHRALDDIN: -- I think that --

4 THE COURT: You believe --

5 MR. ZAHRALDDIN: -- only Mr. Rajan would be a witness
6 on Wednesday.

7 THE COURT: About what?

8 MR. ZAHRALDDIN: Well, Mr. Rajan has the knowledge
9 about the various parties. In their responses, the opponents
10 to the motion indicated that we were trying to get information
11 that we already know about, et cetera. I don't believe that's
12 the case. I believe that it doesn't matter what was given in a
13 prior proceeding. 2019 is an ongoing and temporal disclosure
14 requirement. It can happen at any time and it really just
15 comes from whether or not a parties (sic) were acting in
16 concert.

17 The only thing that's relevant prior to this, I think
18 has already been put into the record. You know about the
19 omnibus agreement. You know about the continuing lack of
20 compliance with post remand injunctions. So the only thing
21 that we would need to put forward is what's happened here as
22 well as the -- we -- I guess we have documents or we have
23 discussions of documents in the prior proceedings in Chancery
24 Court, but we've never seen those and they have not been
25 produced here, which is the important issue.

1 So if Your Honor believes we don't need an
2 evidentiary hearing --

3 THE COURT: Counsel, I don't beli -- I don't tell
4 people how to run their cases. I just thought the issue was
5 who was subject to the rule.

6 MR. ZAHRALDDIN: Yes.

7 THE COURT: And you believe that the response, which
8 I have not looked at -- I'll look at tonight or tomorrow,
9 probably tomorrow and research whatever I need to do.
10 Hopefully not all night long. And hopefully my staff won't
11 be -- my law, my two law -- well, my law clerks will not have
12 to spend their night, either, looking at, you know, trying to
13 figure this out and we'll have discussions about what is the
14 issue. But you believe that on the 2019 C, that the
15 information should be disclosed because --

16 MR. ZAHRALDDIN: The parties were acting in concert.

17 THE COURT: What parties were acting in concert?

18 MR. ZAHRALDDIN: Hawk, SeeCubic. I think about -- I
19 believe it's 50 some odd shareholders that were subject to the
20 omnibus agreement, whoever these eight or nine or other people
21 that Mr. Caponi has mentioned in court, Mr. Morton (phonetic),
22 Albany (phonetic). They have filed concerted actions. They
23 filed the motion to dismiss together. They filed the motion
24 for a trustee together and all of that --

25 THE COURT: So you believe disclosures by groups,

1 committees and entities. And you believe that the -- either
2 the group -- well, we know they're not a committee. They're
3 either groups or entities who are required to disclose a
4 verified statement setting forth the information in paragraph
5 C, which you know, just the information portion.

6 MR. ZAHRALDDIN: Yes, Your Honor.

7 THE COURT: Okay. And that you believe that really
8 what I have to determine is whether these groups of creditors,
9 parties, whatever we're calling them, fit the definition of
10 group or entities who are required to comply --

11 MR. ZAHRALDDIN: Yes.

12 THE COURT: -- with the 2019 --

13 MR. ZAHRALDDIN: An entity is a definition broader
14 than a person.

15 THE COURT: Right. I know. Okay.

16 MR. ZAHRALDDIN: And it's in the bankruptcy code and
17 it encompasses all kinds of things.

18 THE COURT: So -- and the response was we're not
19 required to comply because we don't meet these definitions.

20 MR. ZAHRALDDIN: And they said they had individual
21 counsel, et cetera, but that's not the test, so we will look at
22 that on Wednesday.

23 THE COURT: All right. Okay. But isn't that just a
24 legal issue as to what does that mean, who is required to be --
25 to comply with 2019? I guess if I made a finding as to what

1 that means, I would then have to apply that legal definition to
2 the various entities who the Debtor has asserted must comply.

3 MR. ZAHRALDDIN: And any actions --

4 THE COURT: And then I will need some evidence of who
5 these people are, unless you stipulate that -- who they are.
6 Not their relationship, but you believe that these are the
7 various persons, who you believe it applies to and why you
8 believe. And Mr. Caponi says these are the various people, but
9 I don't think it applies. We all agree that who the various
10 people, person entities groups are?

11 MR. ZAHRALDDIN: Well, some have not been disclosed,
12 other than on the record, we've heard hints of things.

13 THE COURT: Okay.

14 MR. ZAHRALDDIN: And we have stuff that's been put
15 into the record in the Chancery Court.

16 THE COURT: All right.

17 MR. ZAHRALDDIN: But you know, if --

18 THE COURT: So I'm going to need some evidence
19 because even if I conclude that this is what it means, I still
20 have to say, do these people constitute a group, do they
21 constitute an entity and how? I can -- so if I have a legal
22 argument, that's great, but I need to apply the legal argument
23 to the facts of the matter.

24 MR. ZAHRALDDIN: And it would be things that are
25 occurring -- that occurred now and before and they're all

1 judicial actions --

2 THE COURT: So you can --

3 MR. ZAHRALDDIN: -- whether contract --

4 THE COURT: So can you guys stipulate to that or --

5 MR. ZAHRALDDIN: I would love to do that and just do
6 argument. We can stipulate that the omnibus agreement exists.
7 We can stipulate that the side letter agreement exists.

8 THE COURT: What you do -- this is what you do. You
9 can talk to Mr. Caponi. You guys can stipulate to the facts.
10 I'm not telling you you have to. And then you just come in,
11 you say this is what this means and this is why it doesn't
12 agree, it doesn't apply in these facts or you can't agree and
13 you bring somebody who has to tell me who the groups are, the
14 entities are and then make your legal arguments and I have to
15 figure out do these groups, entities, not committees, are they
16 subject to the 2019. So you guys can either agree to all these
17 things or you can make a record.

18 MR. ZAHRALDDIN: Yes, ma'am.

19 THE COURT: So that's what I expect. And what time
20 is this scheduled for on Wednesday?

21 UNIDENTIFIED SPEAKER: Oh, I think it's --

22 MR. ZAHRALDDIN: 11:30, I think.

23 THE COURT: We have an 11:30 list?

24 THE CLERK: It's Number 3 on the 11:30 list.

25 THE COURT: How many we have on the 11:30 list?

1 THE CLERK: Three.

2 THE COURT: Oh, okay. Show up at 12:00.

3 MR. ZAHRALDDIN: Okay.

4 THE COURT: Who else we have? Back up. Let me see
5 who we have before --

6 THE CLERK: Number two is something settled, stipped
7 to be filed.

8 THE COURT: Okay. And then number one.

9 THE CLERK: And number one --

10 THE COURT: Settled --

11 THE CLERK: Number one is a confirmation hearing for
12 like a chapter 11 investment, 1982 Investment, LLC.

13 THE COURT: And did they file a report of planned
14 voting? Because if they didn't, I don't think I'm having a
15 confirmation hearing. That could take a while.

16 THE CLERK: Yeah. October 13. Wait. Hold on.

17 THE COURT: I have to -- I'm -- I just don't want you
18 guys to come here. And sit and have to wait and Wednesdays
19 tend to be on 11:30 I never know what I'm going to get. We
20 have two matters before you. One is resolved. Right?

21 THE CLERK: Correct.

22 THE COURT: And the second one is a confirmation
23 hearing?

24 THE CLERK: Yeah. I just want to get on to the
25 actual docket.

1 THE COURT: Right. If they don't have a report of
2 plan voting, I'm not having confirmation hearings --

3 THE CLERK: I see it. It's a Chapter 11.

4 THE COURT: -- then you guys might as well show up at
5 11:30.

6 THE CLERK: October 13th. Report of planned voting
7 filed on October 13th.

8 THE COURT: Oh, yeah. Well, I guess I'm having a
9 hearing. 12:30. Show up at 12:30.

10 MR. ZAHRALDDIN: Okay.

11 THE COURT: That shouldn't take -- unless did we file
12 any objections to confirmation you see on the docket? No?

13 THE CLERK: Looking for objections, no.

14 THE COURT: Yeah. No objections. Might be just a 20
15 minute proposition where they go through and give me the report
16 of planned voting, say everybody voted in favor and then we --

17 THE CLERK: Because at one point, there was a motion
18 to convert it, but that got withdrawn.

19 THE COURT: Right. I still haven't gotten -- been
20 able to get on here. Okay. 12:00, guys. Just show up at
21 12:00.

22 UNIDENTIFIED SPEAKER: Okay.

23 THE COURT: That should give them a half an hour
24 to -- because I don't see an objection and then usually they
25 just make a proffer and I'm done in 15 minutes.

1 MR. ZAHRALDDIN: So we're going to start at 12:00,
2 start with whatever witnesses and evidence gets put in and then
3 whenever that's in, argument.

4 THE COURT: Yes. And hopefully that's not going to
5 take too long.

6 MR. ZAHRALDDIN: Well, I'm hopeful we can stipulate
7 the things that are in the record below. There won't be that
8 many of them.

9 THE COURT: Right. Here are the groups. Here are
10 the people and here's the other people.

11 MR. CAPONI: I mean, look, I'd like to, Your Honor,
12 but I'm not optimistic, given -- what I just heard was there's
13 eight unidentified people. I mean, Debtor doesn't -- can't
14 identify the people. I think that's going to require evidence.

15 MR. ZAHRALDDIN: That's the point of disclosure, Your
16 Honor. Mr. Caponi maybe he needs to understand that, but when
17 he raises the issue --

18 THE COURT: Oh, come on now. Come on, guys.

19 MR. ZAHRALDDIN: I'm just saying, Your Honor --

20 MR. CAPONI: I don't understand the law, Your Honor.

21 MR. ZAHRALDDIN: Your Honor, he's telling me that I
22 can't identify the people, he hasn't identified, potentially is
23 required to identify. I don't understand that circular
24 argument.

25 THE COURT: All right. So your position is, there

1 were some people who have been identified and others who should
2 have been, but have not been because they didn't comply with
3 the rules. And you're going to put on evidence that there was
4 a mention of this person, that person, that person, and we
5 believe these people are covered by the rules and should have
6 been disclosed. By who, I don't know because if they're not --

7 MR. ZAHRALDDIN: Well, Your Honor, part of the issue
8 is we're going to have certain lists of people that were in the
9 Chancery Court that were revealed there. And then we have
10 heard here from Mr. Caponi and others of other people, mostly
11 equity holders that are sitting behind SeeCubic, behind perhaps
12 Albany or Hawk. Albany is the trustee for Hawk.

13 THE COURT: Okay.

14 MR. ZAHRALDDIN: And what we're going to ask is, did
15 these people disappear?

16 THE COURT: Is Hawk some people in Ca -- where --
17 Hawk is in Canada?

18 MR. ZAHRALDDIN: Hawk is in the Channel Islands.

19 THE COURT: Who is it?

20 MR. ZAHRALDDIN: Hawk is the second lien creditor we
21 believe --

22 THE COURT: Oh, I know they are --

23 MR. ZAHRALDDIN: -- has been converted.

24 THE COURT: -- but I'm like, enlighten me, because
25 Channel Islands is not coming --

1 MR. CAPONI: Off of England.

2 THE COURT: Off of -- okay. So they're the
3 British -- no, not the British, but --

4 MR. CAPONI: Yes.

5 THE COURT: Is there somebody in Canada?

6 MR. ZAHRALDDIN: Not that we know of --

7 THE COURT: Oh, well then it was Britain.

8 MR. ZAHRALDDIN: -- but we could be surprised.

9 THE COURT: I don't know. I thought -- I knew it was
10 another country. I was opting for Canada.

11 MR. ZAHRALDDIN: We have people in the UK. We have
12 some folks in the Channel Islands.

13 THE COURT: I know. That -- okay. I get it. I
14 recall.

15 MR. ZAHRALDDIN: And look Your Honor, the rule -- and
16 I think the opposing counsel took and/or the parties took
17 umbrage at the fact that there are some pretty strict penalties
18 for not disclosing. We didn't make up the penalties that are
19 in the rule. There's some pretty serious penalties in there.

20 THE COURT: Do I have some option or I have to put --
21 I have to --

22 MR. ZAHRALDDIN: It does say that in the Court's
23 discretion, here are the things that could happen and of course
24 there's plenty of --

25 THE COURT: Yes. But you --

1 MR. ZAHRALDDIN: -- case law that said that --

2 THE COURT: Unless -- listen --

3 MR. ZAHRALDDIN: -- there's some -- they're pretty
4 draconian remedies, but you don't have to do that. There can
5 be other things that can be done.

6 THE COURT: Right. Typically, if somebody has a
7 valid legal basis for making an argument, I don't know any
8 court who's going to penalize you, unless you have your
9 argument has no basis whatsoever and it's just off the wall.

10 MR. ZAHRALDDIN: Well, I'm not talking about fee
11 shifting, Your Honor. I'm not talking about that.

12 THE COURT: I'm not saying that.

13 MR. ZAHRALDDIN: Yeah.

14 THE COURT: I'm talking about assessing penalties,
15 assessing --

16 MR. ZAHRALDDIN: Right. Got you.

17 THE COURT: -- failure to comply with the rules. If
18 you have a valid argument -- I don't know how you penalize
19 people, but if you have an argument that has no basis in law,
20 none whatsoever, and you're making it up, then you have a
21 problem. I'm just saying yes. Okay. It provides for it.
22 But, you know --

23 MR. ZAHRALDDIN: So hopefully we can get to something
24 that's stipulated because everything else is on the record.

25 THE COURT: If you can agree to these things, but you

1 can't agree to the rest and then you put some testimony. Or
2 you can't agree to anything. So, 12:00 on Wednesday. Is
3 anybody going to appear by Zoom? If Mr. Rajan still has the
4 flu, he's on the zone.

5 MR. ZAHRALDDIN: I'll tell him that, Your Honor.

6 THE COURT: No -- I had it once. I'm going to just
7 tell all of you. You do not want that. I had COVID and that.
8 COVID was a breeze. This thing, hope. I think I had to cancel
9 a hearing, I was so sick. I have not been that sick in about
10 10 years. So if he has the flu --

11 MR. ZAHRALDDIN: Stay home.

12 THE COURT: Stay home. Or anybody that has the flu.

13 MR. ZAHRALDDIN: Right.

14 THE COURT: I have my shot now. You can do whatever
15 you want, but you don't want to get --

16 MR. CAPONI: Yeah. I don't know, on our side, Your
17 Honor. Obviously, we're going to have to see what evidence
18 gets put on to decide what our response is going to be, so I'd
19 be --

20 THE COURT: Would you at least talk to Mr.
21 Zahralddin --

22 MR. CAPONI: We will.

23 THE COURT: -- and say --

24 MR. CAPONI: Absolutely, Your Honor. I mean --

25 THE COURT: Who are the people you believe and who

1 are the people you should have been disclosed and hopefully
2 that'll shrink it, but if not, you'll have to put your -- you
3 know, another day of --

4 MR. CAPONI: Yeah. I think it's unlikely to end
5 Wednesday, but, you know, we've -- I'll make good progress.

6 THE COURT: Jesus.

7 MR. ZAHRALDDIN: I think it will end Wednesday
8 because I'm a glass half full guy. I believe we sent over a
9 list of things. I'll look at it and revise it.

10 MR. ZAHRALDDIN: I think it would have come over last
11 week, but I'll look at it again and see if I can cut it down --

12 THE COURT: All right. So --

13 MR. ZAHRALDDIN: -- based on the Court's discussion
14 with me and we'll see if we can get therapist.

15 THE COURT: All right. In the meantime, you guys
16 have to figure out a time to have Mr. Stastney's testimony and
17 the two Dutch witnesses.

18 MR. ZAHRALDDIN: And the one California witness.

19 THE COURT: And the one California witness. We need
20 all -- is -- two, three day -- guys come on. Can we like --
21 never mind. I'm going to give you your day in court, but the
22 more -- you know, I -- are we going to finish this before the
23 end of the year?

24 MR. ZAHRALDDIN: I hope so, since it's our assets at
25 risk.

1 THE COURT: Well, counsel, they were at risk when you
2 ca -- never mind.

3 MR. ZAHRALDDIN: Well, it --

4 THE COURT: It --

5 MR. ZAHRALDDIN: -- that doesn't make it any --

6 MR. CAPONI: Like any good dance partner, we're
7 following the Debtor's lead, so we'll end when they -- you're
8 tired of dancing.

9 MR. ZAHRALDDIN: I didn't think it was going to end
10 with a dance with Mr. Caponi. I have to tell you that.

11 THE COURT: Well, whatever. I -- you need to
12 seriously exchange dates with each other --

13 MR. ZAHRALDDIN: Yeah.

14 THE COURT: -- about --

15 MR. ZAHRALDDIN: We're simply waiting, Your Honor.
16 We're -- our witness is actually --

17 MR. CAPONI: I've asked.

18 MR. ZAHRALDDIN: -- waiting for them and then they've
19 got to figure out -- I mean, we're on two different time zones,
20 so we'll figure it out.

21 THE COURT: Just let me know. I will try to
22 accommodate. Right now, I looked in my December. I didn't --
23 am I -- or maybe I was in January or --

24 MR. ZAHRALDDIN: Not between Christmas and New
25 Year's, I hope.

1 THE COURT: I typically close chambers between
2 Christmas and New Year's.

3 MR. ZAHRALDDIN: I know. You mentioned that and I
4 was --

5 THE COURT: I guess I won't be this year --

6 MR. ZAHRALDDIN: No, no, I was happy to hear that. I
7 don't want to be here.

8 THE COURT: Because I want to get this done, at lest
9 some of this case done before the end of the year. I do plan
10 to be away, I don't know, between January 2nd and the 9th.
11 Otherwise my husband might divorce me. So I may be a way --

12 MR. ZAHRALDDIN: I don't want to see you in that
13 condition, if not getting a lunch makes things bad I don't want
14 to do that.

15 THE COURT: Listen I'm not a big -- I don't like
16 vacations. This will --a vacation. So right now the 2nd
17 through the 9th. And I will know for sure by the end of this
18 week when we'll be away.

19 MR. CAPONI: Your Honor, we're just -- because the
20 Debtor's have just finished their case and chief on the TRO,
21 we're just getting started. So I think that proceeding has to
22 run its course. I think as new proceedings, new issues come
23 up, and we begin hearings on them -- speaking only for myself
24 and without speaking to my client about it first -- we would be
25 amenable to, you know, equitable time limits in order to make

1 the parties prioritize on what's important.

2 THE COURT: That would make sense, and I did not do
3 that. I typically try not to because I don't want to deprive
4 people of their opportunity to present their case, but right
5 now, we have been going for -- part of it was my -- today was
6 my question, which I should've never asked or commented that
7 took us astray, but we may have to -- I may have to ask the
8 parties for how much time, and say I'm going to strictly
9 enforce the time. That way we can concentrate, and I will try
10 my best not to ask questions or comments, and then that way we
11 can get through.

12 And hopefully -- because at the end of the day, a lot
13 of this is about Stream and not about Technovative, so I'm not
14 quite sure whether this would -- you know, no matter what
15 happens in the other actions, otherwise -- other than granting
16 a motion to dismiss, would do away with the Stream stuff or
17 appointing a Chapter 11 Trustee. And that still won't make it
18 go away because then some other body -- another person would
19 have to come and figure out what they want to do. So I'm not
20 quite sure how this is going to streamline anything for me, but
21 I will do my best to get some of it off and decided so the
22 parties can have a better idea of what they're doing, with
23 respect to Technovative, anyway.

24 MR. CAPONI: Just one last note. On Wednesday, I
25 don't know what the Debtor's intents are, what witnesses

1 they'll need, what we may need to respond to. My understanding
2 is that they have Mr. Stastney on their list. He's not
3 available in person on Wednesday. I believe he could testify
4 by Zoom, if his testimony is necessary. I just don't know
5 whether or not --

6 MR. COLBY: Well, certainly, we're -- we gave it to
7 him last week. I know it was a holiday, so I'm not going to
8 hold him to that and I hope you don't either, Your Honor, or
9 me. I'm happy to see if we even need Mr. Stastney, if he were
10 available, in case we need to call him, because I don't want to
11 be in a situation where they object to --

12 THE COURT: Well, I mean --

13 MR. COLBY: -- and I have to find an alternative.

14 THE COURT: -- the Zoom seems to be working.

15 MR. COLBY: Right.

16 THE COURT: It has worked.

17 MR. CAPONI: And we have no objection to Mr. Stastney
18 appearing by Zoom.

19 THE COURT: Okay. And then we'll just give him the
20 Zoom link, and if someone else wants to participate -- I just
21 want people to identify themselves when they're here, because I
22 can't see and support -- and we have had incidences where
23 people have just gone off about observers just not liking what
24 I'm saying or not liking the consequences of what the Debtor --
25 or Debtor's friends, and just being very rude and obnoxious.

1 MR. COLBY: I understand.

2 THE COURT: I want to avoid that. I mean, it could
3 be in court and do it, too, but at least I can call the
4 Marshall to come get them.

5 So we will start at 12 on Wednesday. If Mr. Stastney
6 needs to testify as a witness, he can appear by Zoom.

7 Any other witness -- Mr. Rajan (phonetic), if he's
8 sick, he's Zoom.

9 Any other witness?

10 MR. CAPONI: I'd have to look, Your Honor, to see,
11 because we -- it was -- I don't know if I have the list.

12 Was there anybody else we listed, Mr. Shaw? Do you
13 know?

14 MR. SHAW: Eileen, if we need her.

15 THE COURT: Oh. Hi, Eileen.

16 UNIDENTIFIED SPEAKER: Hi, Judge. I'm trying to log
17 in.

18 THE COURT: Well, we're getting ready to shut down,
19 so don't worry about it. I'll call you later about those
20 emergencies.

21 Oh, wait. Hold on, Eileen. Hold on.

22 You have access to dates that are available in
23 December. Just give them --

24 UNIDENTIFIED SPEAKER: Yep.

25 THE COURT: All right. What --

1 UNIDENTIFIED SPEAKER: Yeah, if you can give me just
2 two seconds.

3 THE COURT: Okay.

4 UNIDENTIFIED SPEAKER: I can, hopefully.

5 MR. CAPONI: Your Honor, while she's looking for the
6 dates, just because you mentioned you don't necessarily see
7 everything that hits the docket, I just wanted to let the Court
8 know that the district court did deny the motion to withdraw
9 the reference. That issue was kind of hanging out there.

10 MR. COLBY: You saw that already. I would've thought
11 you'd already seen that, Your Honor.

12 THE COURT: Oh.

13 MR. COLBY: Yeah. She had basically said that the
14 motion to be withdrawn --

15 THE COURT: Wait, when was it issued?

16 MR. CAPONI: November 16th.

17 MR. COLBY: Yeah.

18 THE COURT: They typically mail me a copy.

19 MR. CAPONI: It echoed our discussion where it said
20 that if she needs to do a trial, she'll do a trial.

21 THE COURT: Yeah, after I do the magistrate work.

22 MR. COLBY: It echoed the thing, so same thing.

23 THE COURT: That's typically what happens is they're
24 like, you do everything.

25 MR. COLBY: There are other aspects of it

1 highlighted, but Your Honor can read it.

2 MR. CAPONI: You can read it, Judge.

3 THE COURT: What does she want me to do?

4 MR. CAPONI: She didn't -- it's Judge Marsten
5 (phonetic) and the only highlights are they -- whoever wrote it
6 adopted most of what Skadden put into their pleadings on the
7 prior history. I'm sure that's what they want to talk about.

8 THE COURT: Oh, okay. Well, what am I supposed to do
9 with that?

10 MR. COLBY: I don't think anything, Your Honor.

11 MR. CAPONI: Nothing, Your Honor. I just wanted to
12 let you know that the decision came down because I know you --

13 MR. COLBY: Yeah.

14 MR. CAPONI: -- mentioned you don't always get
15 notified.

16 THE COURT: No, I don't, and I don't read the
17 documents. No, I have asked the IT to make this one of their
18 cases. I can make certain cases where any filings I get notice
19 of.

20 MR. COLBY: I'm surprised you didn't get it.

21 THE COURT: And I thought they had already done that,
22 but apparently not yet.

23 We did or you didn't see? Okay.

24 MR. CAPONI: Okay. Okay, so you did see it. All
25 right.

1 THE COURT: Somebody saw it.

2 MR. CAPONI: All right.

3 THE COURT: The 16th. When was that? And I didn't
4 see it?

5 MR. CAPONI: Yeah.

6 MR. KODOSKY: Your Honor, I didn't find out about it
7 until Wednesday of last week, so --

8 THE COURT: They typically do send us a copy, a
9 courtesy copy, but I don't have a JA, so who knows where my,
10 you know -- I don't know. All right.

11 MR. CAPONI: Your Honor, I ask one --

12 UNIDENTIFIED SPEAKER: It's plugged in. I'm in now.

13 MR. CAPONI: All right.

14 THE COURT: All right. What do I have available in
15 December?

16 UNIDENTIFIED SPEAKER: Okay. I have Monday, December
17 4th. I don't see anything on your calendar.

18 THE COURT: Anything personal on the 4th?

19 UNIDENTIFIED SPEAKER: I don't have anything with --
20 I'm looking at your calendar and I don't see anything there for
21 December 4th.

22 THE COURT: All right. I'm good then, the 4th.
23 What else?

24 UNIDENTIFIED SPEAKER: This next week, we did have
25 something but it got cancelled for the 5th. It was settled.

1 Hold on. That was Hollis (phonetic). That was --

2 THE COURT: So that would be the -- so we would have
3 all day on the 4th?

4 UNIDENTIFIED SPEAKER: Um-hum.

5 THE COURT: A half a day on the 5th, because I would
6 hear my regular list?

7 UNIDENTIFIED SPEAKER: Right, exactly.

8 THE COURT: What's on the 6th?

9 UNIDENTIFIED SPEAKER: All right. On the 6th. Let
10 me see what I have on December the 6th. Okay. I don't think
11 we have anything.

12 THE COURT: That's a --

13 UNIDENTIFIED SPEAKER: We have a trial on the 6th.

14 THE COURT: What trial? Who's that?

15 UNIDENTIFIED SPEAKER: Financial Investments. It's a
16 trial and a motion to be considered to get a default order at
17 12:30.

18 THE COURT: Okay, so that's out.

19 UNIDENTIFIED SPEAKER: Um-hum. And let's see. The
20 7th, I have just a regular 9:30 and an 11:00. Hold on one sec
21 here. It looks like we do have a 9:30 and an 11:00 on the 7th.
22 Let me see.

23 THE COURT: Anything --

24 UNIDENTIFIED SPEAKER: You have MJ Fencing (phonetic)
25 and our holiday party.

1 THE COURT: That's -- the holiday party is for the
2 EDPA. That one?

3 UNIDENTIFIED SPEAKER: Yeah.

4 THE COURT: I haven't attended in two years. I guess
5 I have to go.

6 UNIDENTIFIED SPEAKER: Okay. Yes. I think that's
7 not until 6:00, though.

8 THE COURT: Right, but I did promise to show up this
9 year.

10 MR. CAPONI: It's the inner-workings.

11 THE COURT: All right.

12 UNIDENTIFIED SPEAKER: You have until, like, say
13 12:30 to --

14 THE COURT: To 6:00.

15 UNIDENTIFIED SPEAKER: I'd say 5:00.

16 THE COURT: I only go for a little bit. Okay. So
17 that's -- so we have that date, the 7th, right?

18 UNIDENTIFIED SPEAKER: Right. The 7th, correct?

19 THE COURT: So from 12:30 to 6:00?

20 UNIDENTIFIED SPEAKER: Um-hum.

21 THE COURT: Okay.

22 UNIDENTIFIED SPEAKER: All right. The following
23 week, let me just see. All right. On the 11th, we do have
24 Stream TV.

25 THE COURT: Well, we can't -- we're not adding

1 anything to that. Keep going.

2 UNIDENTIFIED SPEAKER: Okay. The 12th, let me see.
3 It looks like -- oh, I have nothing.

4 THE COURT: That's a Thursday?

5 UNIDENTIFIED SPEAKER: The 12th is a Tuesday.

6 THE COURT: Tuesday.

7 UNIDENTIFIED SPEAKER: I mean, we have our regular
8 list.

9 THE COURT: So we have the afternoon from 12 to 6,
10 7 --

11 UNIDENTIFIED SPEAKER: Yeah.

12 THE COURT: -- on Tuesday the 12th.

13 What about the 13th? That's a Thursday.

14 UNIDENTIFIED SPEAKER: The 13th --

15 MR. CAPONI: Wednesday.

16 THE COURT: A Wednesday.

17 UNIDENTIFIED SPEAKER: Let me look.

18 THE COURT: Look on -- on the Wednesdays, my personal
19 calendar, I always have -- I have my injections every other
20 week.

21 UNIDENTIFIED SPEAKER: Yeah.

22 THE COURT: So I don't even know what -- I did it
23 last week, so the 11th I have to go.

24 UNIDENTIFIED SPEAKER: So you did it last Wednesday
25 which is the 29th.

1 THE COURT: No, the 29th --

2 UNIDENTIFIED SPEAKER: No, no, no.

3 THE COURT: -- is this Wednesday.

4 UNIDENTIFIED SPEAKER: I'm sorry. Which was the
5 22nd, so you would have that on the 6th.

6 THE COURT: Right, that's the next one.

7 UNIDENTIFIED SPEAKER: Right. And then you would
8 have the next one on the 20th.

9 THE COURT: Yes, okay.

10 UNIDENTIFIED SPEAKER: Injection.

11 THE COURT: Yeah, um-hum.

12 UNIDENTIFIED SPEAKER: So on -- it looks like the
13 13th is a good day, as well.

14 THE COURT: Would that --

15 UNIDENTIFIED SPEAKER: A Wednesday.

16 THE COURT: The afternoon from the 12 to 6?

17 UNIDENTIFIED SPEAKER: From the 12 -- from 12:00 on.

18 We have something at 11:30, but that's our typical 11:30

19 Chapter 11 cases.

20 THE COURT: Okay.

21 UNIDENTIFIED SPEAKER: So we have the 13th is good,
22 and then the 14th, we have -- I believe we have Stream TV on
23 the 14th, as well.

24 THE COURT: For what?

25 UNIDENTIFIED SPEAKER: A continued hearing, isn't it?

1 THE COURT: A what hearing?

2 UNIDENTIFIED SPEAKER: It's a continued.

3 THE COURT: I think we kept that date open in case
4 they needed it. Keep it open, see what they tell us. We'll
5 see what you guys tell us.

6 UNIDENTIFIED SPEAKER: Yeah.

7 THE COURT: All right.

8 UNIDENTIFIED SPEAKER: Okay.

9 THE COURT: And then the 15th, what do we have?

10 UNIDENTIFIED SPEAKER: And the 15th, I have nothing,
11 which is a Friday. Let's see if you have anything.

12 THE COURT: Typically not, unless I have --

13 UNIDENTIFIED SPEAKER: A Penn Dental --

14 THE COURT: Hmm, I'll call and figure it out. There
15 is one appointment on there, it's Soffer, S-O-F-F-E-R, nothing
16 can come --

17 UNIDENTIFIED SPEAKER: Okay.

18 THE COURT: I think that might be the 22nd.

19 UNIDENTIFIED SPEAKER: Oh, okay.

20 THE COURT: So, never mind.

21 UNIDENTIFIED SPEAKER: On the 15th, I've got, see
22 Penn Dental.

23 THE COURT: What time?

24 UNIDENTIFIED SPEAKER: At 1:00.

25 THE COURT: Ugh, all right. Let me -- let's hold up

1 on that and I'll figure that out.

2 UNIDENTIFIED SPEAKER: Okay. And then if we go to
3 the following week --

4 THE COURT: Which is Christmas week, right?

5 UNIDENTIFIED SPEAKER: Which is the week before
6 Christmas, yes.

7 THE COURT: Oh.

8 UNIDENTIFIED SPEAKER: We have a trial on 12/18.

9 THE COURT: That's --

10 UNIDENTIFIED SPEAKER: Well, it's actually status and
11 a trial on Trains Joel Specialty (phonetic), again. So --

12 THE COURT: I think that one will go. That's a
13 Monday, right?

14 UNIDENTIFIED SPEAKER: Correct. And then on Tuesday,
15 the 19th, we have no trials.

16 THE COURT: Well, we can have the afternoon. I hope
17 somebody is writing this. The 19th, 12 to 6.

18 UNIDENTIFIED SPEAKER: The 19th is good.

19 THE COURT: Next?

20 UNIDENTIFIED SPEAKER: Let's see. The 20th, I don't
21 have anything on your calendar.

22 THE COURT: That's a Wednesday?

23 UNIDENTIFIED SPEAKER: That's a Wednesday, correct.

24 THE COURT: So we have 12 to 6 on Wednesday the 20th.

25 UNIDENTIFIED SPEAKER: Yeah, the 20th looks good, as

1 well. And then let's see, the 21st, we have typical, you know,
2 I don't have anything --

3 THE COURT: From 12 to 6 for Thursday? 12 to 6 for
4 that day.

5 UNIDENTIFIED SPEAKER: Sorry?

6 THE COURT: 12 to 6? That's the 20th, you said?

7 UNIDENTIFIED SPEAKER: The 21st.

8 THE COURT: 21st.

9 UNIDENTIFIED SPEAKER: The 20th and the 21st are
10 good, Judge.

11 THE COURT: All right. And what about the -- that's
12 all right. It's first thing in the morning.

13 UNIDENTIFIED SPEAKER: Oh, okay. All right then. So
14 the 20th and 21st are good. All right. And then the 22nd you
15 have something. Dr. Soffer?

16 THE COURT: Nothing can come between that. What time
17 is that? 4:00 probably.

18 UNIDENTIFIED SPEAKER: It's at 4:00, correct.

19 THE COURT: Right. So you guys can have some 10:30
20 to 3 on that day.

21 MR. CAPONI: That's 20.

22 THE COURT: Okay.

23 UNIDENTIFIED SPEAKER: Okay, and then it's Christmas.

24 THE COURT: Anybody want hearings the week of
25 Christmas? Oh, wait. The 22nd, forget it. That Monday is

1 Christmas, right?

2 MR. CAPONI: Correct.

3 UNIDENTIFIED SPEAKER: Christmas is Monday the 22nd,
4 yes.

5 THE COURT: 26th, anybody want? No. 27?

6 MR. COLBY: Going once, going twice.

7 THE COURT: 28? No. And then you have to because
8 I'm not going to -- if I go away, I'm leaving on the 2nd and I
9 won't be back until the 9th, so think about that.

10 MR. COLBY: We will make every effort to fit it in.
11 We have a range of options.

12 THE COURT: You have a range of options.

13 MR. COLBY: We will do what we can.

14 THE COURT: Okay. And that's to finish both,
15 assuming that we don't finish the hearing on the 19th, on
16 Wednesday. That's to finish that and to finish Mr. Stastney's
17 testimony, the two Dutch witnesses, and Mr. who from
18 California?

19 MR. ZAHRALDDIN: Mr. Banerjee (phonetic).

20 THE COURT: Banerjee?

21 MR. ZAHRALDDIN: Croschek (phonetic) Banerjee.

22 THE COURT: Okay. All right. I think we should be
23 able to get at least -- how many witnesses do we have? Four
24 witnesses? Even if we do one day for each one of these
25 witnesses, four hours, four or five hours, we should get all

1 four of them done. I think we have enough dates to get four
2 people done.

3 MR. COLBY: Well, in effort to keep it short, I think
4 that colloquy today was helpful. I don't know if you noticed,
5 but after we had that, I was very brief with Mr. Michaels,
6 so --

7 THE COURT: It wasn't to tell you to be brief, but I
8 mean, I think sometimes as litigators, you guys think you're
9 playing to a jury, and sometimes, you get caught up into hours.
10 I litigated once. I know sometimes I lost the forest for the
11 trees -- whatever. I didn't see the forest. I saw the trees,
12 and it's very easy to get done. And so I understand. I just
13 sometimes think that people don't focus on what is it that I
14 need to give the Judge on the trier of fact to get what I want.
15 And I'm not -- you know, even though sometimes I get a little
16 irate, I tend very much to try to be very -- take my emotions
17 out of any decision that I make, for the most part.

18 MR. COLBY: We appreciate that.

19 MR. ZAHRALDDIN: May I release my witness, Judge?

20 THE COURT: Oh. What witness?

21 MR. ZAHRALDDIN: Eileen.

22 THE COURT: Oh, yes, Ms. -- yes, Eileen.

23 MR. ZAHRALDDIN: All right, Eileen. I'm hanging up
24 on you.

25 THE COURT: All right, and this will be over.

1 MR. ZAHRALDDIN: Thank you.

2 UNIDENTIFIED SPEAKER: I have a question.

3 MR. ZAHRALDDIN: Oh, she has a question.

4 UNIDENTIFIED SPEAKER: Judge, all these dates are for
5 the adversary?

6 THE COURT: Yes. They are for the preliminary
7 injunction --

8 UNIDENTIFIED SPEAKER: Okay.

9 THE COURT: -- TRO.

10 UNIDENTIFIED SPEAKER: Okay. And what happened to
11 the motion for Stie (phonetic)? That was scheduled also for
12 today, but I guess you never got to it, right?

13 MR. ZAHRALDDIN: Well, Your Honor, I think what we
14 discussed was if we could get to a compromise on the worldwide
15 piece of it, that we would wait to see when Your Honor had a
16 little more room on the calendar. So depending upon what days
17 come back, maybe we can --

18 THE COURT: Well, I thought the parties were going to
19 try to see if you could submit an order that had been entered
20 in --

21 MR. ZAHRALDDIN: Absolutely. And what I did --

22 THE COURT: Are you working on that?

23 MR. ZAHRALDDIN: I stayed late on Wednesday instead
24 of going out and seeing all the people that came back home, got
25 out a version of the order, and we attached, I think, three --

1 no, I think four or five -- I might be, you know, misstating
2 that, but we attached several from other cases to the motion so
3 they could look at those cases, they could send us orders.
4 Otherwise, I am waiting for them to send me something back. I
5 just --

6 THE COURT: And then if you guys can agree on
7 language, do I even need to hear anything and it's an agreed
8 order? If not --

9 MR. ZAHRALDDIN: I'll send competing orders in.

10 THE COURT: Then just send me and all I'm going to
11 have -- because first of all, one, why should I do it. That's
12 legal argument. Why should I? And then if I do, this is what
13 it should say. That shouldn't take too long. Shouldn't.

14 MR. ZAHRALDDIN: Shouldn't.

15 THE COURT: Shouldn't take too long.

16 MR. ZAHRALDDIN: Shouldn't.

17 THE COURT: Shouldn't. All right. So why don't you
18 continue the discussions with counsel on that order, and then
19 if you can submit an agreed order, we'll try to put it on, on
20 one of those days.

21 MR. ZAHRALDDIN: And what I also will do is I will
22 try to respond to the latest questions in the mediation and see
23 if I can't push that, as well, because that might solve at
24 least part of what we requested in our stay violations motion.

25 THE COURT: All right. And I understand with respect

1 to the stay violations motion, you may be able to come to a
2 stipulated record on that, relying and citing to the records in
3 the various hearings that we've had.

4 MR. ZAHRALDDIN: Yes, Your Honor.

5 THE COURT: And that would, you know, make it easier
6 that we wouldn't have to be in court and would actually be
7 addressing some of the issues.

8 Anything further from anyone?

9 MR. ZAHRALDDIN: Your Honor, the only other thing
10 that my client has requested is that to the extent that there
11 is relief requested in the TRO that doesn't -- that Mr.
12 Barenbach (phonetic) and I've got to get Mr. Hodges (phonetic)
13 -- the two folks from the Netherlands --

14 THE COURT: This is Barenbrug (phonetic)?

15 MR. ZAHRALDDIN: Yeah. To the extent that they or
16 Mr. Banerjee have no impact on some of the relief that we've
17 requested -- for example, the trademark issue has nothing to do
18 with anybody in the Netherlands, etcetera. Would you consider
19 looking at those issues and maybe disposing of them beforehand?

20 THE COURT: What issue?

21 MR. ZAHRALDDIN: The trademark. The filing of a --
22 and I can't say it any other way --

23 THE COURT: Oh, wait. You're asking me with respect
24 to violation of the automatic stay by filing with Mister --

25 MR. ZAHRALDDIN: Or giving us a TRO. For example, to

1 please stop filing things falsely with the USPTO.

2 THE COURT: Well, that wouldn't -- well, I wouldn't
3 say please stop filing things falsely. I might say don't file
4 anything until we resolve this matter.

5 MR. COLBY: Yeah, I think -- I mean, we -- I
6 understand --

7 MR. ZAHRALDDIN: Either one would be nice.

8 MR. COLBY: I understand Mr. Zahralddin to be
9 requesting for partial relief.

10 MR. ZAHRALDDIN: That's what I --

11 MR. COLBY: They just closed their case. Now, we
12 haven't had any chance to respond --

13 MR. ZAHRALDDIN: Understood.

14 MR. COLBY: -- with our own witnesses, so I think
15 that's premature.

16 THE COURT: Well, I would think --

17 MR. ZAHRALDDIN: It can --

18 THE COURT: -- without granting anybody's request,
19 don't file anything. I don't think I should have to tell
20 anybody that. Don't do it until at least you come here and I
21 figure something else, unless, listen, if you want to -- again,
22 if your counsel tells you that you believe you can proceed, and
23 you proceed and you do at your own risk, and if I find that,
24 you know, even if counsel may have had reasonable basis to tell
25 you to do something, that has nothing to do with 360 2K.

1 MR. ZAHRALDDIN: Yeah.

2 THE COURT: Okay? I always tell people, I error on
3 the side of caution. If there's even a likelihood that your
4 actions are going to violate the State or could be deemed a
5 violation, come ask for a relief. That's all I tell people.

6 MR. ZAHRALDDIN: And Your Honor, Mr. Colby is right.
7 I should not be asking for --

8 THE COURT: No.

9 MR. ZAHRALDDIN: -- that relief prematurely, but if
10 we get to a point where we're not looking at rebuttal, I may
11 ask again.

12 THE COURT: Well, all I can tell you is my -- I
13 caution people. Proceed at your own risk. I'm not saying I'm
14 going to tell you what you did was improper, but if it turns
15 out it is and it's a violation of the State, it's a costly,
16 very costly, decision. So again, people can do whatever they
17 want. I would just say --

18 MR. COLBY: Thank you, Your Honor.

19 THE COURT: -- don't do it.

20 MR. ZAHRALDDIN: Let's just hear the evidence on it
21 and the explanation and then --

22 THE COURT: Well, let me just say you can have all
23 the -- people will go do things and they can have a valid
24 explanation. That doesn't mean it's not a violation. It only
25 means what your sanctions are going to be.

1 MR. ZAHRALDDIN: I understand.

2 THE COURT: I'm not -- and I don't want anybody to
3 say that I'm finding that it was or wasn't or any of those
4 things. I'll hear the explanation and I'll, you know -- I've
5 only heard one side. I've only seen one document, one side
6 documents, but just a caution people. Proceed at your own
7 risk.

8 MR. ZAHRALDDIN: Understood.

9 THE COURT: All right.

10 MR. CAPONI: That's all the Debtor's have, Your
11 Honor.

12 THE COURT: All right. That concludes the matters
13 that are scheduled before the Court today. Court is adjourned
14 until -- tomorrow is Tuesday, right?

15 MR. CAPONI: Um-hum.

16 THE COURT: 10:30.

17 UNIDENTIFIED SPEAKER: Yep.

18 THE COURT: 10:30. Thank you.

19 MR. COLBY: Thank you, Your Honor.

20 THE COURT: All right.

21 (Proceedings adjourned)

22

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24

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C E R T I F I C A T E

I hereby certify that the foregoing is a true and correct transcript from the electronic sound recording of the proceedings in the above-entitled matter.

John Buckley

John Buckley, CET-623
Digital Court Proofreader